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AMENDED IN ASSEMBLY JANUARY 19, 2006
AMENDED IN ASSEMBLY AUGUST 25, 2005
AMENDED IN ASSEMBLY JULY 11, 2005
AMENDED IN SENATE MAY 4, 2005
AMENDED IN SENATE APRIL 11, 2005

SENATE BILL

No. 1008

Introduced by Senators Ducheny and Machado
(Principal coauthor: Assembly Member Dymally)
(Coauthor: Assembly Member Matthews)

February 22, 2005

An act to amend Sections 7072 ~~and 7073~~ of 7073, 7073.8, 7076, 7076.1, 7085.5, and 7117 of, to add Sections 7072.1, 7074.2, 7082.2, 7085.1, 7085.2, and 7085.6 to, and to repeal and add Section 7072.5 of, the Government Code, and to amend Sections 17053.34, 17053.46, 17053.47, 17053.74, 17235, 17267.2, 17267.6, 17268, 17276.2, 17276.5, 17276.6, 23622.7, 23622.8, 23634, 23646, 24356.6, 24356.7, 24356.8, 24384.5, 24416.2, 24416.5, and 24416.6, and to add Sections 17053.76 and 23622.9 to, of the Revenue and Taxation Code, relating to economic development.

LEGISLATIVE COUNSEL'S DIGEST

SB 1008, as amended, Ducheny. Economic incentive areas.

~~(1) The Enterprise Zone Act provides for the designation by the Department of Housing and Community Development of enterprise zones, upon application by a city, county, or city and county with an~~

~~eligible area, as defined, within its jurisdiction, pursuant to which qualifying entities within the zone receive various program, tax, and regulatory incentives. The applying entity is required to establish definitive boundaries for the proposed enterprise zone and targeted employment area, as defined. The designation of an enterprise zone is binding for a period of 15 years, which may be extended to a total of 20 years under specified conditions.~~

~~This bill would revise the definitions of an “eligible area” and a “targeted employment area” for these purposes. It would authorize a city, county, or city and county to propose, and authorize the department to designate, an area as an enterprise zone with noncontiguous boundaries. It would authorize the extension of the designation to total 25 years, and to include revisions with noncontiguous boundaries.~~

(1) Existing law provides for the designation and oversight by the Department of Housing and Community Development of various economic development areas in the state, including enterprise zones, up to two Manufacturing Enhancement Areas, a targeted tax area, and local agency military base recovery areas, or LAMBRAs, pursuant to which qualifying entities in those areas may receive various tax and regulatory incentives.

This bill would make various revisions in the requirements for designating and administering enterprise zones generally. It would provide for the administration and oversight of geographically targeted economic development areas, which would include enterprise zones, Manufacturing Enhancement Areas, the targeted tax area, and LAMBRAs, by the department, subject to specified criteria. It would also apply various requirements applicable to those entities to the geographically targeted economic development areas.

(2) The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a hiring credit for qualified taxpayers who hire qualified employees, as defined, within enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRAs, subject to specified criteria. The qualified taxpayer is required to obtain a certification from specified entities regarding the eligibility of the qualified employee.

~~This bill would revise the definition of “qualified employee” for this purpose, and would revise the provisions governing the obtaining of the certificate of eligibility.~~

This bill would, for taxable years beginning on or after January 1, 2007, suspend the operation of the separate provisions that authorize these credits under both of those laws and would instead, authorize one hiring credit under those respective laws for qualified taxpayers who hire qualified employees, as defined, within a geographically targeted economic development area.

(3) The Personal Income Tax Law and the Corporation Tax Law allow various deductions in connection with enterprise zones, Manufacturing Enhancement Areas, targeted tax areas, and LAMBRAs, including a business expense deduction of 40% of the cost of specified property, and a deduction for net operating losses. In general, 100% of net operating losses are allowed to be carried forward to each of the 15 years following the year of the loss. In the case of taxpayers that also conduct business outside of an enterprise zone, Manufacturing Enhancement Area, targeted tax area, or LAMBRA, the taxpayers are required to apportion the losses to the zone or area in accordance with a specified apportionment formula.

This bill would increase the business expense deduction under these provisions to 60% of the cost of specified property. It would allow the net operating losses to be carried forward to each of the 17 years following the year of the loss and would eliminate the apportionment formula.

(4) This bill would delete various obsolete references and make conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7072 of the Government Code is
2 amended to read:
3 7072. For purposes of this chapter, the following definitions
4 shall apply:
5 (a) “Department” means the Department of Housing and
6 Community Development.
7 (b) “Date of original designation” means the earlier of the
8 following:
9 (1) The date the eligible area receives designation as an
10 enterprise zone by the department pursuant to this chapter.

(2) In the case of an enterprise zone deemed designated pursuant to subdivision (e) of Section 7073, the date the enterprise zone or program area received original designation by the former Trade and Commerce Agency pursuant to Chapter 12.8 (commencing with Section 7070) or Chapter 12.9 (commencing with Section 7080), as those chapters read prior to January 1, 1997.

(c) "Eligible area" means any of the following:

(1) An area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070), as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080), as it read prior to January 1, 1997.

(2) ~~A—With respect to an enterprise zone designated prior to January 1, 2007, a~~ geographic area that, based upon the determination of the department, fulfills at least one of the following ~~criteria~~:

(A) The proposed geographic area meets the Urban Development Action Grant criteria of the United States Department of Housing and Urban Development.

(B) The area within the proposed zone has experienced plant closures within the past two years affecting more than 100 workers.

(C) The city or county has submitted material to the department for a finding that the proposed geographic area meets criteria of economic distress related to those used in determining eligibility under the Urban Development Action Grant Program and is therefore an eligible area.

(D) The area within the proposed zone has a history of gang-related activity, whether or not crimes of violence have been committed.

(3) ~~A—With respect to an enterprise zone geographically targeted economic development area designated on or after January 1, 2007, a~~ geographic area that meets at least two of the following criteria:

(A) The census tracts within the proposed zone have an unemployment rate not less than 3 percentage points above the statewide ~~or countrywide~~ average for the ~~most recent calendar~~

1 ~~year prior three years~~ as determined by the Employment
2 Development Department.

3 (B) ~~The county of the proposed zone has more~~ More than 70
4 percent of the children enrolled in public ~~school~~ schools serving
5 the census tract within the proposed zone are participating in the
6 federal free lunch program.

7 (C) The median household income for a family of four within
8 the census tracts of the proposed zone does not exceed 80 percent
9 of the statewide median income for the most recently available
10 calendar year.

11 (d) “Enterprise zone” means any area within a city, county, or
12 city and county that is designated as such by the department in
13 accordance with Section 7073.

14 (e) “Geographically targeted economic development area”
15 means an area designated as an enterprise zone, a
16 Manufacturing Enhancement Area, a targeted tax area, or a
17 local agency military base recovery area.

18 ~~(e)~~

19 (f) “Governing body” means a county board of supervisors or
20 a city council, as appropriate.

21 ~~(f)~~

22 (g) “High technology industries” includes, but is not limited
23 to, the computer, biological engineering, electronics, and
24 telecommunications industries.

25 ~~(g)~~

26 (h) “Resident,” unless otherwise defined, means a person
27 whose principal place of residence is within a targeted
28 employment area.

29 ~~(h) “Targeted~~

30 (i) (1) *With respect to an enterprise zone designated prior to*
31 *January 1, 2007, “targeted employment area”* means an area
32 within a city, county, or city and county that is composed solely
33 of those census tracts designated by the United States
34 Department of Housing and Urban Development as having at
35 least 51 percent of its residents of low- or moderate-income
36 levels, using either the most recent United States Department of
37 Census data available at the time of the original enterprise zone
38 application or the most recent census data available at the time
39 the targeted employment area is designated to determine that
40 eligibility. ~~The purpose of a “targeted employment area” is to~~

1 encourage businesses in an enterprise zone to hire eligible
2 residents of certain geographic areas within a city, county, or city
3 and county. A targeted employment area may be, but is not
4 required to be, the same as all or part of an enterprise zone. A
5 targeted employment area's boundaries need not be contiguous.
6 A targeted employment area does not need to encompass each
7 eligible census tract within a city, county, or city and county. The
8 governing body of each city, county, or city and county that has
9 jurisdiction of the enterprise zone shall identify those census
10 tracts whose residents are in the most need of this employment
11 targeting. Only those census tracts within the jurisdiction of the
12 city, county, or city and county that has jurisdiction of the
13 enterprise zone may be included in a targeted employment area.

14 At least a part of each eligible census tract within a targeted
15 employment area shall be within the territorial jurisdiction of the
16 city, county, or city and county that has jurisdiction for an
17 enterprise zone. If an eligible census tract encompasses the
18 territorial jurisdiction of two or more local governmental entities,
19 all of those entities shall be a party to the designation of a
20 targeted employment area. However, any one or more of those
21 entities, by resolution or ordinance, may specify that it shall not
22 participate in the application as an applicant, but shall agree to
23 complete all actions stated within the application that apply to its
24 jurisdiction, if the area is designated.

25 Each local governmental entity of each city, county, or city and
26 county that has jurisdiction of an enterprise zone shall approve,
27 by resolution or ordinance, the boundaries of its targeted
28 employment area, regardless of whether a census tract within the
29 proposed targeted employment area is outside the jurisdiction of
30 the local governmental entity.

31 (2) *With respect to an enterprise zone designated on or after*
32 *January 1, 2007, "targeted employment area" means an area*
33 *within a city, county, or city and county that is composed solely*
34 *of those census block groups designated by the United States*
35 *Department of Housing and Urban Development as having at*
36 *least 61 percent of its residents of low- or moderate-income*
37 *levels, using either the most recent United States Department of*
38 *Census data available at the time of the original enterprise zone*
39 *application or the most recent United States Department of*
40 *Census data available.*

1 SEC. 2. Section 7072.1 is added to the Government Code, to
2 read:

3 7072.1. For geographically targeted economic development
4 area designations made on or after January 1, 2007, the
5 following shall occur:

6 (a) The department shall maintain a log of what designation
7 criteria are used by successful applicants for geographically
8 targeted economic development area designation. The
9 designation criteria shall also be identified in a memorandum of
10 understanding between the department and the area.

11 (b) The data cited in the geographically targeted economic
12 development area application shall be deemed baseline data and
13 shall be used by the department to track whether the conditions
14 that qualified an application for designation have been impacted
15 through the activities of the area.

16 (c) The department shall annually review the baseline data
17 and determine whether more recent data is publicly available in
18 order to track the overall circumstances of the geographically
19 targeted economic development area.

20 (d) The department shall annually make the information in this
21 section available to the Legislature by geographically targeted
22 economic development area.

23 SEC. 3. Section 7072.5 of the Government Code is repealed.

24 ~~7072.5. By April 1, 1998, a governing body that has already~~
25 ~~designated a target employment area may request, by a resolution~~
26 ~~of all cities or counties having jurisdiction over the enterprise~~
27 ~~zone, to redesignate the targeted employment area using more~~
28 ~~current census data. A targeted employment area shall be~~
29 ~~comprised of census tracts from only one decennial census.~~

30 SEC. 4. Section 7072.5 is added to the Government Code, to
31 read:

32 7072.5. (a) The purpose of a targeted employment area is to
33 encourage businesses in a geographically targeted economic
34 development area to hire residents of certain geographic areas
35 within a city, county, or city and county. A targeted employment
36 area may be, but is not required to be, the same as all or part of
37 a geographically targeted economic development area. A
38 targeted employment area's boundaries need not be contiguous.
39 A targeted employment area need not encompass each eligible

1 census tract or block group, as applicable, within a city, county,
2 or city and county.

3 (b) (1) The governing body of each city, county, or city and
4 county that has jurisdiction of the geographically targeted
5 economic development area shall identify those census tracts or
6 block groups, as applicable, whose residents are in the most need
7 of employment targeting.

8 (2) The city, county, or city and county shall update the
9 targeted employment area of a geographically targeted economic
10 development area within 180 days of updated United States
11 Department of Census data becoming available.

12 (3) An enterprise zone described in paragraph (2) of
13 subdivision (c) of Section 7072 shall meet the criteria described
14 in paragraph (3) of that subdivision upon the first updating by
15 the city, county, or city and county after January 1, 2007.

16 (c) At least a part of each eligible census tract or block group,
17 as applicable, within a targeted employment area of
18 geographically targeted economic development area shall be
19 within the territorial jurisdiction of the city, county, or city and
20 county that has jurisdiction for the geographically targeted
21 economic development area. If an eligible census tract or block
22 group, as applicable, encompasses the territorial jurisdiction of
23 two or more local governmental entities, all of those entities shall
24 be a party to the designation of a targeted employment area.
25 However, any one or more of those entities, by resolution or
26 ordinance, may specify that it shall not participate in the
27 application as an applicant, but shall agree to complete all
28 actions stated within the application that apply to its jurisdiction,
29 if the area is designated.

30 (d) Each local governmental entity of each city, county, or city
31 and county that has jurisdiction of a geographically targeted
32 economic development area shall approve, by resolution or
33 ordinance, the boundaries of its targeted employment area,
34 regardless of whether a census tract or block group, as
35 applicable, within the proposed targeted employment area is
36 outside the jurisdiction of the local governmental entity.

37 SEC. 5. Section 7073 of the Government Code is amended to
38 read:

39 7073. (a) Except as provided in subdivision (e), any city,
40 county, or city and county with an eligible area within its

jurisdiction may complete a preliminary application for designation as an enterprise zone. The applying entity shall establish definitive boundaries for the proposed enterprise zone and the targeted employment area. *An entity may propose zones in areas with noncontiguous boundaries, and the department may designate those areas as zones if the director determines both of the following:*

(1) The noncontiguous area is needed to implement the applicants' economic development strategy.

(2) The areas between the noncontiguous areas have not been excluded from the proposed zone for discriminatory purposes.

(b) (1) In designating enterprise zones, the department shall select from the applications submitted those proposed enterprise zones that, upon a comparison of all of the applications submitted, indicate that they propose the most effective; ~~innovative, and comprehensive regulatory, tax, program, and other incentives in attracting private sector investment in the zone—proposed~~ *economic development strategy and implementation plan utilizing state and local programs and incentives to create jobs, attract private sector investment, and improve the economic conditions within the zone proposed. The department shall prescribe a format that promotes succinct and focused strategies and plans, and set minimum standards for the strategies and plans that include, but are not limited to, all of the following:*

(A) An assessment of current financial and community development strengths, needs, and opportunities.

(B) A framework for investment of time, action, and money.

(C) Clear articulation of goals.

(D) Measurable objectives, including targets.

(E) Proposed implementation activities and tasks, including timeframes, and a framework for evaluating performance, including qualitative and quantitative benchmarks.

(2) Benchmarks, goals, objectives, and funding commitments shall be approved by the legislative body of the local jurisdiction.

~~(2)~~

(3) For purposes of this subdivision, ~~regulatory~~ local incentives include, but are not limited to, all of the following:

1 (A) The suspension or relaxation of locally originated or
2 modified building codes, zoning laws, general development
3 plans, or rent controls.

4 (B) The elimination or reduction of fees for applications,
5 permits, and local government services.

6 (C) The establishment of a streamlined permit process.

7 ~~(3) For purposes of this subdivision, tax incentives include,~~
8 ~~but are not limited to, the elimination~~

9 (D) *Elimination* or reduction of construction taxes or business
10 license taxes.

11 ~~(4) For the purposes of this subdivision, program and other~~
12 ~~incentives may include, but are not limited to, all of the~~
13 ~~following:~~

14 ~~(A)~~

15 (E) The provision or expansion of infrastructure.

16 ~~(B)~~

17 (F) The targeting of federal block grant moneys, including
18 small cities, education, and health and welfare block grants.

19 ~~(C)~~

20 (G) The targeting of economic development grants and loan
21 moneys, including grant and loan moneys provided by the federal
22 ~~Urban Development Action Grant program and the federal~~
23 ~~Economic Development Administration United States~~
24 ~~Department of Housing and Urban Development.~~

25 ~~(D)~~

26 (H) The targeting of state and federal job disadvantaged and
27 vocational education grant moneys, including moneys provided
28 by the federal ~~Job Training Partnership Act of 1982 (Public Law~~
29 ~~97-300) Workforce Investment Act of 1998 (Public Law~~
30 ~~105-220), or its successor.~~

31 ~~(E)~~

32 (I) The targeting of federal or state transportation grant
33 moneys.

34 ~~(F)~~

35 (J) The targeting of federal or state low-income housing and
36 rental assistance moneys.

37 ~~(G)~~

38 (K) The use of tax allocation bonds, special assessment bonds,
39 bonds under the Mello-Roos Community Facilities Act of 1982
40 (Chapter 2.5 (commencing with Section 53311) of Part 1 of

1 Division 2 of Title 5), industrial development bonds, revenue
2 bonds, private activity bonds, housing bonds, bonds issued
3 pursuant to the Marks-Roos Local Bond Pooling Act of 1985
4 (Article 4 (commencing with Section 6584) of Chapter 5),
5 certificates of participation, hospital bonds, redevelopment
6 bonds, school bonds, and all special provisions provided for
7 under federal tax law for enterprise community or empowerment
8 zone bonds.

9 ~~(5) In the process of designating new enterprise zones, the~~
10 ~~department shall take into consideration the location of existing~~
11 ~~zones and make every effort to locate new zones in a manner that~~
12 ~~will not adversely affect any existing zones.~~

13 ~~(6) In designating new enterprise zones, the department shall~~
14 ~~include in its criteria the fact that jurisdictions have been~~
15 ~~declared disaster areas by the President of the United States~~
16 ~~within the last seven years.~~

17 ~~(7)~~

18 (4) When reviewing and ranking new enterprise zone
19 applications, the department shall give special consideration or
20 bonus points, or both, to applications from jurisdictions that meet
21 at least two of the following criteria:

22 (A) The percentage of households within the census tracts of
23 the proposed enterprise zone area, the income of which is below
24 the poverty level, is at least 17.5 percent.

25 (B) The average unemployment rate for the census tracts of
26 the proposed enterprise zone area was not less than five
27 percentage points above the statewide average for the most recent
28 calendar year as determined by the Employment Development
29 Department.

30 (C) The applicant jurisdiction has, and can document that it
31 has, a unique distress factor affecting long-term economic
32 development, including, but not limited to, resource depletion,
33 plant closure, industry recession, natural disaster, or military base
34 closure.

35 (5) *Except as modified pursuant to paragraph (4),*
36 *applications shall be ranked by the effectiveness of the economic*
37 *development strategy and implementation plan, including all of*
38 *the following:*

1 (A) *The extent the strategy clearly identifies the local resources,*
2 *incentives, and programs that will be made available to the zone*
3 *for meetings its goals and objectives.*

4 (B) *The extent the strategy provides for attracting private*
5 *sector investment.*

6 (C) *The extent the strategy includes related regional and*
7 *community-based partnerships for achieving the goals and*
8 *objectives in the strategy.*

9 (D) *The extent the strategy fits within the jurisdiction's overall*
10 *economic development strategy, including the extent that*
11 *economic strategy and implementation plan is appropriate for*
12 *the local community.*

13 (E) *The extent the strategy addresses the hiring and retention*
14 *of unemployed or underemployed residents or low-income*
15 *individuals in the proposed zone and surrounding areas.*

16 (F) *The extent the strategy sets reasonable and measurable*
17 *benchmarks, goals, and objectives.*

18 (G) *The extent the strategy sets forth an appropriate funding*
19 *schedule for management, oversight, and program delivery*
20 *within the zone relative to the benchmarks, goals, and objectives*
21 *in the strategy.*

22 (c) (1) In evaluating applications for designation, the
23 department shall ensure that applications are not disqualified
24 solely because of technical deficiencies, and shall provide
25 applicants with an opportunity to correct the deficiencies.
26 Applications shall be disqualified if the deficiencies are not
27 corrected within two weeks.

28 (2) *It is the intent of the Legislature that the department*
29 *review criteria, including point systems, not inadvertently reward*
30 *the length of an applicant's response rather than the quality and*
31 *effectiveness of the applicant's response. Applications shall be as*
32 *streamlined as possible to achieve the mission and objectives of*
33 *the program.*

34 (d) (1) Except as provided in paragraph (2), or upon
35 dedesignation pursuant to subdivision (c) of Section 7076.1 ~~or~~,
36 Section 7076.2, or Section 7085.1, a designation made by the
37 department shall be binding for a period of 15 years from the
38 date of the original designation.

39 (2) (A) The designation period for any zone designated
40 pursuant to either Section 7073, *this section* or *former Section*

7085, as it read prior to 1990 January 1, 1997, may be extended by up to two five-year periods, to total 25 years, subject to possible dedesignation pursuant to subdivision (c) of Section 7076.1 or, Section 7076.2, or Section 7085.1, if the following requirements are met:

~~(A) The~~

(i) The area within the zone is an eligible area within the meaning of paragraph (2) of subdivision (c) of Section 7072.

(ii) The zone receives a superior or passing audit pursuant to subdivision (c) of Section 7076.1.

~~(B)~~

(iii) The local jurisdictions comprising the zone submit an updated economic development plan to the department justifying the need for an each additional five years by defining goals and objectives that still need to be achieved and indicating what actions are to be taken to achieve these goals and objectives. Notwithstanding paragraph (3) of subdivision (c) of Section 7085.1, all reports and updated goals and objectives required under that subdivision shall be provided to the department.

(B) At the request of the applying entity, the department may approve an extended designation period for a zone with revised boundaries within the jurisdiction of the applying entity, if the area is an eligible area within the meaning of subdivision (c) of Section 7072. An entity may apply for an extended designation period for a zone with revised boundaries that are noncontiguous, and the department may approve the extension if the director determines both of the following:

(i) The noncontiguous area is needed to implement the applicant's economic development strategy.

(ii) The areas between the noncontiguous areas have not been excluded from the proposed zone for discriminatory purposes.

(e) (1) Notwithstanding any other provision of law, any area designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) as it read prior to January 1, 1997, or as a targeted economic development area, neighborhood economic development area, or program area pursuant to Chapter 12.9 (commencing with Section 7080) as it read prior to January 1, 1997, or any program area or part of a program area deemed designated as an enterprise zone pursuant to Section 7085.5 as it read prior to January 1, 1997, shall be deemed to be designated

1 as an enterprise zone pursuant to this chapter. The effective date
2 of designation of the enterprise zone shall be that of the original
3 designation of the enterprise zone pursuant to Chapter 12.8
4 (commencing with Section 7070) as it read prior to January 1,
5 1997, or of the program area pursuant to Chapter 12.9
6 (commencing with Section 7080) as it read prior to January 1,
7 1997, and in no event may the total designation period exceed 15
8 years, except as provided in paragraph (2) of subdivision (d).

9 (2) Notwithstanding any other provision of law, any enterprise
10 zone authorized, but not designated, pursuant to Chapter 12.8
11 (commencing with Section 7070) as it read prior to January 1,
12 1997, shall be allowed to complete the application process started
13 pursuant to that chapter, and to receive final designation as an
14 enterprise zone pursuant to this chapter.

15 (3) Notwithstanding any other provision of law, any expansion
16 of a designated enterprise zone or program area authorized
17 pursuant to Chapter 12.8 (commencing with Section 7070) as it
18 read prior to January 1, 1997, or Chapter 12.9 (commencing with
19 Section 7080) as it read prior to January 1, 1997, shall be deemed
20 to be authorized as an expansion for a designated enterprise zone
21 pursuant to this chapter.

22 (4) No part of this chapter may be construed to require a new
23 application for designation by an enterprise zone designated
24 pursuant to Chapter 12.8 (commencing with Section 7070) as it
25 read prior to January 1, 1997, or a targeted economic
26 development area, neighborhood economic development area, or
27 program area designated pursuant to Chapter 12.9 (commencing
28 with Section 7080) as it read prior to January 1, 1997.

29 (f) Notwithstanding any other provision of law, a city, county,
30 or a city and county may designate a joint powers authority to
31 administer the enterprise zone.

32 (g) (1) No more than 42 enterprise zones may be designated at
33 any one time pursuant to this chapter, including those deemed
34 designated pursuant to subdivision (e). Upon the expiration or
35 termination of a designation, the department is authorized to
36 designate another enterprise zone to maintain a total of 42
37 enterprise zones.

38 (2) *The department shall notify the Legislature in writing 60*
39 *days prior to soliciting any enterprise zone applications. Notice*
40 *shall be submitted to the Chief Clerk of the Assembly and the*

1 *Secretary of the Senate. A copy of the notice shall be provided to*
2 *the Speaker of the Assembly, the President Pro Tempore of the*
3 *Senate, and the chairs of the Joint Budget Committee and the*
4 *relevant policy committees in each house with jurisdiction over*
5 *the enterprise zone program.*

6 *SEC. 6. Section 7073.8 of the Government Code is amended*
7 *to read:*

8 7073.8. (a) The department shall designate up to two
9 Manufacturing Enhancement Areas, ~~as defined by Section~~
10 ~~17053.47 of the Revenue and Taxation Code~~, requested by the
11 governing boards of cities each of which shall meet at least the
12 following criteria:

13 (1) The unemployment rate in the county in which the
14 applicant is located has been at least three times the state average
15 from 1990 to 1995, inclusive.

16 (2) The applicant city is, or portions of the city are, designated
17 a federal enterprise community or empowerment zone pursuant
18 to Subchapter U (commencing with Section 1391) of Chapter 1
19 of Subtitle A of Title 26 of the United States Code.

20 (3) The applicant city is located in a Border Environment
21 Cooperation Commission region as specified in Section 3473 of
22 Title 19 of the United States Code.

23 (4) At least one of the following:

24 (A) The designated area has grown by less than 5 percent in
25 population per year for each of the two years preceding the
26 application date.

27 (B) The median household income for the designated area is
28 under twenty-five thousand dollars (\$25,000) per year.

29 (C) The designated area has a population of under 20,000
30 persons according to the 1990 federal census.

31 (D) The designated area is located in a rural community.

32 (5) An audit of the program shall be made ~~at the end of the 5th~~
33 ~~and 10th year of its operation pursuant to Section 7076.1~~ by the
34 department with the cooperation of the local governing board.
35 The audit shall be used to determine how effective the
36 designation has been in attracting manufacturing facilities and
37 creating new employment opportunities. Continuation of the
38 designation is contingent on evidence of success of the program.

39 (b) For purposes of applying any provision of the Revenue and
40 Taxation Code, any Manufacturing Enhancement Area

1 designated pursuant to this section shall not be considered an
2 enterprise zone designated pursuant to this chapter.

3 (c) The designation as a Manufacturing Enhancement Area
4 pursuant to this section shall be binding for a period of 15 years,
5 commencing January 1, 1998.

6 *SEC. 7. Section 7074.2 is added to the Government Code, to*
7 *read:*

8 *7074.2. (a) Based on a review of all eligible and complete*
9 *applications, pursuant to the requirements of this chapter, the*
10 *department shall determine a final list of applicants for*
11 *geographically targeted economic development areas and issue a*
12 *letter of preliminary designation.*

13 *(b) The department shall develop a draft memorandum of*
14 *understanding with each geographically targeted economic*
15 *development area that has received preliminary designation.*

16 *(c) (1) The draft memorandum of understanding shall include*
17 *the benchmarks, goals, and objectives contained in the*
18 *application, including further refinements necessary to ensure*
19 *the benchmarks, goals, and objectives are measurable, are*
20 *conducive to the successful completion of the economic*
21 *development strategy, and can be evaluated on at least an annual*
22 *basis in a cost-effective manner by the geographically targeted*
23 *economic development area and reported to the department.*

24 *(2) The draft memorandum of understanding may include*
25 *additional goals and objectives of the program to the extent that*
26 *they do not take away from or are in conflict with the goals and*
27 *objectives proposed in the application, including the elements on*
28 *the economic development strategy. To the extent relevant to the*
29 *applicant's economic development strategy, as determined by the*
30 *department, each draft memorandum of understanding shall*
31 *include, in addition to any other goals proposed by the applicant,*
32 *a goal to do the following:*

33 *(A) Develop a directory of the businesses located in the*
34 *geographically targeted economic development area.*

35 *(B) Develop or enhance the geographically targeted economic*
36 *development area's marketing plan and include how local, state,*
37 *and federal resources will be used to retain and grow businesses,*
38 *as well as attract new businesses to the geographically targeted*
39 *economic development area.*

1 (C) Maximize the use of public training programs to improve
2 workers ability to meet the needs of geographically targeted
3 economic development area businesses.

4 (D) At least annually offer precertification opportunities to
5 workers who are a potentially eligible employee for hiring credit
6 vouchers.

7 (3) The draft memorandum understanding shall include other
8 provisions that are necessary to meet the requirements of this
9 chapter or the relevant provisions of the Revenue and Taxation
10 Code or are determined by the department to be necessary for
11 the proper oversight and management of the geographically
12 targeted economic development area.

13 (4) The draft memorandum of understanding shall set forth the
14 management and oversight responsibilities of the local legislative
15 body, including funding levels for staffing and program delivery.

16 (d) The designation of the geographically targeted economic
17 development area shall be deemed to be final upon the
18 memorandum of understanding be signed by the department and
19 the city, county, city and county, or combination of these entities,
20 that represent the area proposed for inclusion into the
21 geographically targeted economic development area.

22 SEC. 8. Section 7076 of the Government Code is amended to
23 read:

24 7076. (a) (1) The department shall provide technical
25 assistance to the enterprise zones designated pursuant to this
26 chapter with respect to all of the following activities:

27 (A) Furnish limited onsite assistance to the enterprise zones
28 when appropriate.

29 (B) Ensure that the locality has developed a method to make
30 residents, businesses, and neighborhood organizations aware of
31 the opportunities to participate in the program.

32 (C) Help the locality develop a marketing program for the
33 enterprise zone.

34 (D) Coordinate activities of other state agencies regarding the
35 enterprise zones.

36 (E) Monitor the progress of the program.

37 (F) Help businesses to participate in the program.

38 (G) The department shall work in conjunction with the
39 California Business Investment Services in the Labor and
40 Workforce Development Agency to ensure that enterprise zones,

1 *LAMBRAs, Manufacturing Enhancement Areas, and the targeted*
2 *tax area each have a comprehensive statewide marketing*
3 *program consistent with subparagraph (C).*

4 (2) Notwithstanding ~~existing~~ *any other provision of law*, the
5 provision of services in subparagraphs (A) to ~~(F)~~ (G), inclusive,
6 shall be a high priority of the department.

7 (3) The department may, at its discretion, undertake other
8 activities in providing management and technical assistance for
9 successful implementation of this chapter.

10 (b) The applicant shall be required to begin implementation of
11 the enterprise zone plan contained in the final application within
12 six months after notification of final designation or the enterprise
13 zone shall lose its designation.

14 (c) The department may establish, charge, and collect a fee as
15 reimbursement for the costs of its administration of this chapter.
16 The department shall assess each enterprise zone a fee of not
17 more than ten dollars (\$10) for each application it accepts for
18 issuance of a certificate pursuant to subdivision (c) of Section
19 ~~17053.74~~ 17053.76 of the Revenue and Taxation Code and
20 subdivision (c) of Section ~~23622.7~~ 23622.9 of the Revenue and
21 Taxation Code. The enterprise zone administrator may collect
22 this fee at the time it accepts an application for issuance of a
23 certificate. This subdivision shall become inoperative on January
24 1, 2007, and shall have no force or effect on or after that date.

25 (d) Any fee assessed and collected pursuant to subdivision (c)
26 shall be refundable if the certificate issued by the local
27 government pursuant to subdivision (c) of Section ~~17053.74~~
28 17053.76 of the Revenue and Taxation Code and subdivision (c)
29 of Section ~~23622.7~~ 23622.9 of the Revenue and Taxation Code is
30 not accepted by the Franchise Tax Board.

31 *SEC. 9. Section 7076.1 of the Government Code is amended*
32 *to read:*

33 7076.1. (a) The department may audit the program of any
34 jurisdiction in any designated ~~zone~~ *geographically targeted*
35 *economic development area* at any time during the duration of
36 the designation, as appropriate, or at least every five years from
37 the date of designation or the operative date of this section,
38 whichever is the latest. The matters to be examined in the course
39 of an audit shall include an examination of the progress made by
40 the ~~zone~~ *geographically targeted economic development area*

1 toward meeting the goals, objectives, and commitments set forth
2 in its original application and the department's memorandum of
3 understanding with the ~~zone~~ *geographically targeted economic*
4 *development area*.

5 (b) *The department shall provide each jurisdiction in a*
6 *designated geographically targeted economic development area*
7 *with a copy of each audit performed of that geographically*
8 *targeted economic development area, and related*
9 *documentation.*

10 ~~(b)~~
11 (c) The department shall, for each audit, determine a result of
12 superior, pass, or fail in accordance with subdivision ~~(e)~~ (d). The
13 results of each audit shall be based upon the success of the ~~zone~~
14 *geographically targeted economic development area* in making
15 substantial and sustained efforts since the later of its designation
16 or last audit to meet the standards, criteria, and conditions
17 contained in the application and the memorandum of
18 understanding (MOU) between the department and the ~~zone~~
19 *geographically targeted economic development area*, as may be
20 amended pursuant to the agreement of the ~~zone~~ *geographically*
21 *targeted economic development area* and the department. *The*
22 *audit shall also review how well the geographically targeted*
23 *economic development area activities fit within the community's*
24 *overall economic development strategy and to what extent the*
25 *area management comprehensively presents its accomplishments*
26 *and work plan to the local jurisdictions.* In each audit, the
27 department shall focus upon the ~~zone's~~ *geographically targeted*
28 *economic development area's* use of the marketing plan, local
29 incentives, financing programs, job development, and program
30 management as described in the application and the MOU. The
31 department shall also evaluate the vouchering plan, ~~zone-staff~~
32 *staffing levels, zone budget, and elements unique to each*
33 *application.*

34 ~~(e)~~
35 (d) For purposes of subdivision ~~(b)~~ (c), an audit determination
36 of superior, pass, or fail shall be ~~made~~ *determined by a sliding*
37 *scale based on performance for each element reviewed, and in*
38 *accordance with the following:*

39 (1) A ~~zone~~ *geographically targeted economic development*
40 *area* will be determined to be superior if each jurisdiction

1 comprising the ~~zone~~ *geographically targeted economic*
2 *development area* does all of the following:

3 (A) Meets 100 percent of its goals, objectives, and
4 commitments as defined in its application ~~or~~, most recent audit,
5 *annual report, and memorandum of understanding with the*
6 *department*, and as determined by the department in consultation
7 with the ~~zone~~ *geographically targeted economic development*
8 *area*. An equivalent or similar commitment may be substituted
9 for an existing commitment of a ~~zone~~ *geographically targeted*
10 *economic development area* if it is determined by the department
11 that an original commitment was not realistically practical or is
12 no longer relevant.

13 (B) Demonstrates that it has reviewed and updated its goals,
14 objectives, and commitments as defined in its original application
15 ~~or~~, most recent audit, *annual report, and memorandum of*
16 *understanding with the department*.

17 (C) Identifies to the department's satisfaction that it has
18 incorporated economic development commitments in addition to
19 those commitments previously made in its application.

20 (2) (A) A ~~zone~~ *geographically targeted economic*
21 *development area* will be determined to be passing if each
22 jurisdiction comprising the ~~zone~~ *area* meets or exceeds 75
23 percent of its goals, objectives, or commitments as defined in its
24 original application ~~or~~, *most recent audit, annual report, and*
25 *memorandum of understanding with the department*, and as
26 determined by the department in consultation with the ~~zone~~
27 *geographically targeted economic development area*. An
28 equivalent or similar commitment may be substituted for an
29 existing commitment of a ~~zone~~ *geographically targeted*
30 *economic development area* if it is determined by the department
31 that an original commitment was not realistically practical or is
32 no longer relevant.

33 (B) Any ~~zone~~ *geographically targeted economic development*
34 *area* that is determined to be passing may appeal in writing to the
35 department for a determination of superior. Only one appeal may
36 be filed pursuant to this subparagraph with respect to a
37 determination by the department, and may be filed no later than
38 30 days after the ~~zone's~~ *geographically targeted economic*
39 *development area's* receipt of the determination to which the
40 appeal pertains. The department shall respond in writing to any

1 appeal that is properly filed pursuant to this subparagraph within
2 60 days of the date of that filing.

3 (3) (A) A ~~zone~~ *geographically targeted economic*
4 *development area* will be determined to be failing if any
5 jurisdiction comprising the ~~zone~~ *geographically targeted*
6 *economic development area* fails to meet or exceed 75 percent of
7 its goals, objectives, or commitments as defined in its original
8 application ~~or, most recent audit, annual report, and~~
9 *memorandum of understanding with the department*, and as
10 determined by the department in consultation with the ~~zone~~
11 *geographically targeted economic development area*. An
12 equivalent or similar commitment may be substituted for an
13 existing commitment of a ~~zone~~ *geographically targeted*
14 *economic development area* if it is determined by the department
15 that an original commitment was not realistically practical or is
16 no longer relevant.

17 (B) Any ~~zone~~ *geographically targeted economic development*
18 *area* that is determined to be failing shall enter into a written
19 agreement with the department that specifies those items that the
20 ~~zone~~ *geographically targeted economic development area* is
21 required to remedy or improve. Failure of the ~~zone~~
22 *geographically targeted economic development area* and the
23 department to negotiate and enter into a written agreement as so
24 described within 60 days of the last day upon which the
25 department is required to deliver a response letter pursuant to
26 subparagraph (C) shall result in the dedesignation of the ~~zone~~
27 *geographically targeted economic development area* on January
28 1 immediately following the department's written notice of
29 dedesignation to the ~~zone~~ *geographically targeted economic*
30 *development area*. A written agreement entered into pursuant to
31 this subparagraph shall be for a six-month period. If, upon the
32 expiration of the agreement, the department determines that the
33 ~~zone~~ *geographically targeted economic development area* has
34 not met or implemented at least 75 percent of the conditions set
35 forth in the agreement, the department shall, after immediately
36 providing written notification to each jurisdiction comprising the
37 ~~zone~~ *geographically targeted economic development area* that
38 the ~~zone~~ *geographically targeted economic development area* is
39 to be dedesignated, dedesignate the ~~zone~~ *geographically targeted*
40 *economic development area* effective on the first day of the

1 month next following the date upon which the agreement
2 expired. If, upon expiration of the agreement, the department
3 determines that the ~~zone~~ *geographically targeted economic*
4 *development area* has met or implemented at least 75 percent of
5 the conditions set forth in the agreement, the department shall do
6 either of the following:

7 (i) Allow the ~~zone~~ *geographically targeted economic*
8 *development area* an additional year, or a longer period in the
9 department's discretion, to meet or implement those conditions in
10 their entirety.

11 (ii) Pursuant to written notice provided immediately to each
12 jurisdiction that comprises the ~~zone~~ *geographically targeted*
13 *economic development area* that the ~~zone~~ *geographically*
14 *targeted economic development area* is to be dedesignated,
15 dedesignate the ~~zone~~ *geographically targeted economic*
16 *development area* effective on January 1 immediately following
17 the date of the department's written notification of dedesignation
18 to those jurisdictions.

19 Any business, located within any jurisdiction that comprises a
20 ~~zone~~ *geographically targeted economic development area* that
21 has been dedesignated, that has elected to avail itself of any state
22 tax incentive specifically applicable to a ~~zone~~ *geographically*
23 *targeted economic development area* for any taxable or income
24 year beginning prior to the dedesignation of the ~~zone~~
25 *geographically targeted economic development area* may, to the
26 extent the business is otherwise still eligible for those incentives,
27 continue to avail itself of those incentives for a period equal to
28 the remaining life of the ~~zone~~ *geographically targeted economic*
29 *development area*. However, any business, located within any
30 jurisdiction that comprises a ~~zone~~ *geographically targeted*
31 *economic development area* that has been dedesignated, that has
32 not availed itself of any state tax incentive in the manner
33 described in the preceding sentence may not, after dedesignation
34 of the ~~zone~~ *geographically targeted economic development area*,
35 avail itself of any state incentive specifically applicable to a ~~zone~~
36 *geographically targeted economic development area*.

37 (d) (1) For purposes of this section, "dedesignation" means
38 that a ~~zone~~ *geographically targeted economic development area*
39 is no longer a ~~zone~~ *geographically targeted economic*

1 *development area* for purposes of either Section 7073-~~or~~, 7073.8,
2 7085, 7097, or 7114.

3 (2) Upon notification by the department of the dedesignation
4 of a ~~zone~~ *geographically targeted economic development area*
5 and the end of the appeal period with respect to that
6 dedesignation, the department shall initiate an application
7 process for a new designation as provided in Section 7073,
8 7073.8, 7085, 7097, or 7114. *Notice shall be provided to the*
9 *Legislature, as specified in paragraph (2) of subdivision (g) of*
10 *Section 7073.*

11 SEC. 10. Section 7082.2 is added to the Government Code, to
12 read:

13 7082.2. *In the case of a geographically targeted economic*
14 *development area being dedesignated pursuant to Section*
15 *7085.1, any business located within any jurisdiction that*
16 *comprises a geographically targeted economic development area*
17 *that has been dedesignated or within a jurisdiction that has*
18 *excluded itself from a geographically targeted economic*
19 *development area, that has elected to avail itself of any state tax*
20 *incentive specifically applicable to a geographically targeted*
21 *economic development area for any taxable or income year*
22 *beginning prior to the dedesignation of the geographically*
23 *targeted economic development area or the exclusion of a*
24 *jurisdiction comprising the geographically targeted economic*
25 *development area may, to the extent the business is still*
26 *otherwise eligible for those incentives, continue to avail itself of*
27 *those incentives for a period equal to the remaining life of the*
28 *geographically targeted economic development area. However,*
29 *any business located within any jurisdiction that comprises a*
30 *geographically targeted economic development area that has*
31 *been dedesignated or within a jurisdiction that has excluded*
32 *itself from a geographically targeted economic development*
33 *area, that has not availed itself of any state tax incentive in the*
34 *manner described in the preceding sentence may not, after*
35 *dedesignation of the geographically targeted economic*
36 *development area, avail itself of any state incentive specifically*
37 *applicable to a geographically targeted economic development*
38 *area.*

39 SEC. 11. Section 7085.1 is added to the Government Code, to
40 read:

1 7085.1. (a) *The governing board of the geographically*
2 *targeted economic development area shall report to the*
3 *department by October 1 of each year on the activities of the*
4 *geographically targeted economic development area in the*
5 *previous fiscal year and its plans for the current fiscal year. The*
6 *annual report shall include at least all of the following:*

7 (1) *The progress the geographically targeted economic*
8 *development area has made during the year relative to its goals,*
9 *objectives, and commitments set forth in its original application*
10 *and the department's memorandum of understanding with the*
11 *geographically targeted economic development area.*

12 (2) *Identification of the previous year's funding, including*
13 *in-kind funding. The previous year's funding levels shall be*
14 *compared to the funding levels identified in its original*
15 *application and the department's memorandum of understanding*
16 *with the geographically targeted economic development area,*
17 *and the amount identified in the previous year's annual report.*
18 *An explanation of any meaningful discrepancies in these amounts*
19 *shall be provided.*

20 (3) *The annual work plan, including operating budget for the*
21 *current year, as provided in Section 7085.2.*

22 (b) *A copy of the annual report developed pursuant to*
23 *subdivision (a) shall also be submitted to the legislative bodies of*
24 *the local jurisdictions comprising the geographically targeted*
25 *economic development area. The progress of the geographically*
26 *targeted economic development area in meeting the goals,*
27 *objectives, and commitments set forth in the original application*
28 *and the memorandum of understanding with the department shall*
29 *annually be reviewed by these legislative bodies, either as part of*
30 *the approval of the geographically targeted economic*
31 *development area's annual work plan or separately, at the*
32 *discretion of the legislative body.*

33 (c) (1) *Geographically targeted economic development areas*
34 *designated prior to January 1, 2007, shall have until April 15,*
35 *2008, to update their goals and objectives in order to meet the*
36 *requirements of this section and the goals and objectives set forth*
37 *in subdivision (c) of Section 7074.2. The local legislative body*
38 *and the department shall approve the updated goals and*
39 *objectives. The updated goals and objectives shall be included as*
40 *an update to the existing memorandum of understanding between*

1 *the geographically targeted economic development area and the*
2 *department.*

3 *(2) Geographically targeted economic development areas that*
4 *fail to obtain approved updated goals and objectives by April 15,*
5 *2008, shall be dedesignated effective July 1, 2008. The Director*
6 *of Housing and Community Development shall provide notice of*
7 *prospective dedesignation to the local government no later than*
8 *May 1, 2008. The director may authorize up to two 60-calendar*
9 *day extensions, if the local government and geographically*
10 *targeted economic development area are acting in good faith and*
11 *the additional time would allow them to meet the requirements of*
12 *this subdivision. Businesses located with a geographically*
13 *targeted economic development area that have been*
14 *dedesignated shall continue to have access to tax incentives*
15 *previously authorized within the geographically targeted*
16 *economic development area pursuant to Section 7082.2.*

17 *(3) Geographically targeted economic development areas*
18 *designated prior to January 1, 2007 are not required to*
19 *implement the annual reporting requirements of subdivisions (a)*
20 *and (b) until October 1, 2009.*

21 *(d) The department shall monitor the levels of financial and*
22 *in-kind support that is provided to the geographically targeted*
23 *economic development area by the legislative body.*

24 *(1) (A) If, in the determination of the director, a local*
25 *government demonstrates a pattern of providing inadequate*
26 *support, financial and in-kind, to the geographically targeted*
27 *economic development area to meet the goals, objectives, and*
28 *other commitments set forth in the initial application and the*
29 *memorandum of understanding, the department shall take all*
30 *actions necessary to encourage the legislative body to provide*
31 *sufficient funding to meet its commitment of support, including,*
32 *as a last resort, dedesignation of the geographically targeted*
33 *economic development area. Notice of any prospective*
34 *dedesignation shall be provided to the local government no later*
35 *than 60 calendar days prior to the effective date of the*
36 *dedesignation.*

37 *(B) For the purposes of this paragraph, “a pattern of*
38 *inadequate support” means providing inadequate support for*
39 *three of the previous five years.*

1 (C) “Inadequate support” means providing support at a level
2 that is less than 75 percent of the amount committed to in the
3 geographically targeted economic development area’s annual
4 work plan, initial application, or memorandum of understanding.

5 (2) In the case of dedesignation, businesses in the
6 geographically targeted economic development areas shall
7 continue to have access to tax incentives previously authorized
8 within the geographically targeted economic development areas
9 pursuant to Section 7082.2.

10 (e) The department shall annually make available to the
11 Legislature information related to the progress that each
12 geographically targeted economic development area is making
13 toward implementing its goals, objectives, and commitments set
14 forth in the original application, the department’s memorandum
15 of understating with the geographically targeted economic
16 development area, and the annual report.

17 SEC. 12. Section 7085.2 is added to the Government Code, to
18 read:

19 7085.2. (a) Geographically targeted economic development
20 area administrators shall annually prepare a work plan that
21 identifies the major projects, programs, and activities the
22 geographically targeted economic development area will
23 undertake in order to further its progress in meeting its goals,
24 objectives, and commitments set forth in its application and
25 memorandum of understanding with the department.

26 (b) The annual work plan shall include an explanation of the
27 funding required to complete the annual work plan.

28 (c) The geographically targeted economic development area
29 administrator shall make a written finding that the funding
30 proposed for the year is sufficient to complete the projects,
31 programs, and activities identified in the annual work plan.

32 (d) The legislative body shall approve the annual work plan,
33 including the budget, as part of its ongoing oversight
34 responsibilities for geographically targeted economic
35 development areas.

36 SEC. 13. Section 7085.5 of the Government Code is amended
37 to read:

38 7085.5. The Franchise Tax Board shall annually make
39 available to the department and the Legislature information, by
40 enterprise zone, LAMBRA, Manufacturing enhancement Area,

1 *targeted tax area*, and by city or county, on the dollar value of
2 the enterprise zone, *LAMBRA*, *Manufacturing Enhancement*
3 *Area*, and *targeted tax area* tax credits that are claimed each year
4 by businesses and shall design and distribute forms and
5 instructions that will allow the following information to be
6 accessible:

7 (a) The number of jobs for which the hiring credits are
8 claimed.

9 (b) *The length of employment of each vouchered employee*
10 *claimed pursuant to subdivision (a) of Section 17053.76 and*
11 *subdivision (a) of Section 23622.9 of the Revenue and Taxation*
12 *Code, categorized by each year of employment.*

13 ~~(b)~~

14 (c) The number of new employees for which hiring credits are
15 claimed.

16 ~~(c)~~

17 (d) The number of businesses claiming each individual tax
18 credit.

19 ~~(d)~~

20 (e) The nature of the business claiming each individual tax
21 credit.

22 ~~(e)~~

23 (f) The distribution of zone tax incentives among industry
24 groups.

25 ~~(f)~~

26 (g) The distribution of zone tax incentives by the annual
27 receipts and asset value of the business claiming each individual
28 tax credit.

29 ~~(g)~~

30 (h) Any other information that the Franchise Tax Board and
31 the department deem to be important in determining the cost to,
32 and benefit derived by, the taxpayers of the state.

33 *SEC. 14. Section 7085.6 is added to the Government Code, to*
34 *read:*

35 *7085.6. (a) The department shall annually make available to*
36 *the Legislature information, by enterprise zone, LAMBRA,*
37 *Manufacturing Enhancement Area, targeted tax area, and by city*
38 *or county, on the following:*

1 (1) To what extent training programs were utilized by each
2 enterprise zone, LAMBRA, Manufacturing Enhancement Area,
3 and targeted tax area.

4 (2) How many of the vouchered employees for that year are
5 participating or have recently participated in public assistance
6 programs.

7 (b) The entities described in subdivision (a) shall make
8 available any information requested by the department for the
9 purposes of this section.

10 SEC. 15. Section 7117 of the Government Code, as added by
11 Section 1 of Chapter 1216 of the Statutes of 1993, is amended to
12 read:

13 7117. A business located within a local agency military base
14 recovery area shall be eligible for the tax benefits set forth within
15 Sections 17053.45, ~~17053.46~~ 17053.76, 17268, 17276.2,
16 23622.9, 23645, ~~23646~~, 24356.8, and 24416.2 of the Revenue
17 and Taxation Code only if it provides a net increase in jobs in the
18 local agency military base recovery area within the first two
19 years from the business' initial date of operation. If the business
20 fails to meet its obligations under the local agency military base
21 recovery area plan or the requirements of this act, any tax
22 benefits received under those sections shall be recaptured, as
23 provided in each of those sections.

24 SEC. 16. Section 17053.34 of the Revenue and Taxation Code
25 is amended to read:

26 17053.34. (a) For each taxable year beginning on or after
27 January 1, 1998, there shall be allowed a credit against the "net
28 tax" (as defined in Section 17039) to a qualified taxpayer who
29 employs a qualified employee in a targeted tax area during the
30 taxable year. The credit shall be equal to the sum of each of the
31 following:

32 (1) Fifty percent of qualified wages in the first year of
33 employment.

34 (2) Forty percent of qualified wages in the second year of
35 employment.

36 (3) Thirty percent of qualified wages in the third year of
37 employment.

38 (4) Twenty percent of qualified wages in the fourth year of
39 employment.

1 (5) Ten percent of qualified wages in the fifth year of
2 employment.

3 (b) For purposes of this section:

4 (1) “Qualified wages” means:

5 (A) That portion of wages paid or incurred by the qualified
6 taxpayer during the taxable year to qualified employees that does
7 not exceed 150 percent of the minimum wage.

8 (B) Wages received during the 60-month period beginning
9 with the first day the employee commences employment with the
10 qualified taxpayer. Reemployment in connection with any
11 increase, including a regularly occurring seasonal increase, in the
12 trade or business operations of the qualified taxpayer does not
13 constitute commencement of employment for purposes of this
14 section.

15 (C) Qualified wages do not include any wages paid or incurred
16 by the qualified taxpayer on or after the targeted tax area
17 expiration date. However, wages paid or incurred with respect to
18 qualified employees who are employed by the qualified taxpayer
19 within the targeted tax area within the 60-month period prior to
20 the targeted tax area expiration date shall continue to qualify for
21 the credit under this section after the targeted tax area expiration
22 date, in accordance with all provisions of this section applied as
23 if the targeted tax area designation were still in existence and
24 binding.

25 (2) “Minimum wage” means the wage established by the
26 Industrial Welfare Commission as provided for in Chapter 1
27 (commencing with Section 1171) of Part 4 of Division 2 of the
28 Labor Code.

29 (3) “Targeted tax area expiration date” means the date the
30 targeted tax area designation expires, is revoked, is no longer
31 binding, or becomes inoperative.

32 (4) (A) “Qualified employee” means an individual who meets
33 all of the following requirements:

34 (i) At least 90 percent of his or her services for the qualified
35 taxpayer during the taxable year are directly related to the
36 conduct of the qualified taxpayer’s trade or business located in a
37 targeted tax area.

38 (ii) Performs at least 50 percent of his or her services for the
39 qualified taxpayer during the taxable year in a targeted tax area.

1 (iii) Is hired by the qualified taxpayer after the date of original
2 designation of the area in which services were performed as a
3 targeted tax area.

4 (iv) Is any of the following:

5 (I) Immediately preceding the qualified employee's
6 commencement of employment with the qualified taxpayer, was
7 a person eligible for services under the federal Job Training
8 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
9 who is receiving, or is eligible to receive, subsidized
10 employment, training, or services funded by the federal Job
11 Training Partnership Act, or its successor.

12 (II) Immediately preceding the qualified employee's
13 commencement of employment with the qualified taxpayer, was
14 a person eligible to be a voluntary or mandatory registrant under
15 the Greater Avenues for Independence Act of 1985 (GAIN)
16 provided for pursuant to Article 3.2 (commencing with Section
17 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
18 Institutions Code, or its successor.

19 (III) Immediately preceding the qualified employee's
20 commencement of employment with the qualified taxpayer, was
21 an economically disadvantaged individual 14 years of age or
22 older.

23 (IV) Immediately preceding the qualified employee's
24 commencement of employment with the qualified taxpayer, was
25 a dislocated worker who meets any of the following:

26 (aa) Has been terminated or laid off or who has received a
27 notice of termination or layoff from employment, is eligible for
28 or has exhausted entitlement to unemployment insurance
29 benefits, and is unlikely to return to his or her previous industry
30 or occupation.

31 (bb) Has been terminated or has received a notice of
32 termination of employment as a result of any permanent closure
33 or any substantial layoff at a plant, facility, or enterprise,
34 including an individual who has not received written notification
35 but whose employer has made a public announcement of the
36 closure or layoff.

37 (cc) Is long-term unemployed and has limited opportunities for
38 employment or reemployment in the same or a similar
39 occupation in the area in which the individual resides, including

1 an individual 55 years of age or older who may have substantial
2 barriers to employment by reason of age.

3 (dd) Was self-employed (including farmers and ranchers) and
4 is unemployed as a result of general economic conditions in the
5 community in which he or she resides or because of natural
6 disasters.

7 (ee) Was a civilian employee of the Department of Defense
8 employed at a military installation being closed or realigned
9 under the Defense Base Closure and Realignment Act of 1990.

10 (ff) Was an active member of the armed forces or National
11 Guard as of September 30, 1990, and was either involuntarily
12 separated or separated pursuant to a special benefits program.

13 (gg) Is a seasonal or migrant worker who experiences chronic
14 seasonal unemployment and underemployment in the agriculture
15 industry, aggravated by continual advancements in technology
16 and mechanization.

17 (hh) Has been terminated or laid off, or has received a notice
18 of termination or layoff, as a consequence of compliance with the
19 Clean Air Act.

20 (V) Immediately preceding the qualified employee's
21 commencement of employment with the qualified taxpayer, was
22 a disabled individual who is eligible for or enrolled in, or has
23 completed a state rehabilitation plan or is a service-connected
24 disabled veteran, veteran of the Vietnam era, or veteran who is
25 recently separated from military service.

26 (VI) Immediately preceding the qualified employee's
27 commencement of employment with the qualified taxpayer, was
28 an ex-offender. An individual shall be treated as convicted if he
29 or she was placed on probation by a state court without a finding
30 of guilty.

31 (VII) Immediately preceding the qualified employee's
32 commencement of employment with the qualified taxpayer, was
33 a person eligible for or a recipient of any of the following:

34 (aa) Federal Supplemental Security Income benefits.

35 (bb) Aid to Families with Dependent Children.

36 (cc) Food stamps.

37 (dd) State and local general assistance.

38 (VIII) Immediately preceding the qualified employee's
39 commencement of employment with the qualified taxpayer, was

1 a member of a federally recognized Indian tribe, band, or other
2 group of Native American descent.

3 (IX) Immediately preceding the qualified employee's
4 commencement of employment with the qualified taxpayer, was
5 a resident of a targeted tax area.

6 (X) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was a member
8 of a targeted group as defined in Section 51(d) of the Internal
9 Revenue Code, or its successor.

10 (B) Priority for employment shall be provided to an individual
11 who is enrolled in a qualified program under the federal Job
12 Training Partnership Act or the Greater Avenues for
13 Independence Act of 1985 or who is eligible as a member of a
14 targeted group under the Work Opportunity Tax Credit (Section
15 51 of the Internal Revenue Code), or its successor.

16 (5) (A) "Qualified taxpayer" means a person or entity that
17 meets both of the following:

18 (i) Is engaged in a trade or business within a targeted tax area
19 designated pursuant to Chapter 12.93 (commencing with Section
20 7097) of Division 7 of Title 1 of the Government Code.

21 (ii) Is engaged in those lines of business described in Codes
22 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
23 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
24 of the Standard Industrial Classification (SIC) Manual published
25 by the United States Office of Management and Budget, 1987
26 edition.

27 (B) In the case of any ~~pass-through~~ *passthrough* entity, the
28 determination of whether a taxpayer is a qualified taxpayer under
29 this section shall be made at the entity level and any credit under
30 this section or Section 23634 shall be allowed to the ~~pass-through~~
31 *passthrough* entity and passed through to the partners or
32 shareholders in accordance with applicable provisions of this part
33 or Part 11 (commencing with Section 23001). For purposes of
34 this subdivision, the term ~~"pass-through"~~ *"passthrough entity"*
35 means any partnership or ~~S~~ "S" corporation.

36 (6) "Seasonal employment" means employment by a qualified
37 taxpayer that has regular and predictable substantial reductions in
38 trade or business operations.

1 (c) If the qualified taxpayer is allowed a credit for qualified
2 wages pursuant to this section, only one credit shall be allowed to
3 the taxpayer under this part with respect to those qualified wages.

4 (d) The qualified taxpayer shall do both of the following:

5 (1) Obtain from either the Employment Development
6 Department, as permitted by federal law, or the local county or
7 city Job Training Partnership Act administrative entity or the
8 local county GAIN office or social services agency, as
9 appropriate, a certification that provides that a qualified
10 employee meets the eligibility requirements specified in clause
11 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
12 Employment Development Department may provide preliminary
13 screening and referral to a certifying agency. The Employment
14 Development Department shall develop a form for this purpose.

15 (2) Retain a copy of the certification and provide it upon
16 request to the Franchise Tax Board.

17 (e) (1) For purposes of this section:

18 (A) All employees of trades or businesses, which are not
19 incorporated, that are under common control shall be treated as
20 employed by a single taxpayer.

21 (B) The credit, if any, allowable by this section with respect to
22 each trade or business shall be determined by reference to its
23 proportionate share of the expense of the qualified wages giving
24 rise to the credit, and shall be allocated in that manner.

25 (C) Principles that apply in the case of controlled groups of
26 corporations, as specified in subdivision (d) of Section 23634,
27 shall apply with respect to determining employment.

28 (2) If an employer acquires the major portion of a trade or
29 business of another employer (hereinafter in this paragraph
30 referred to as the “predecessor”) or the major portion of a
31 separate unit of a trade or business of a predecessor, then, for
32 purposes of applying this section (other than subdivision (f)) for
33 any calendar year ending after that acquisition, the employment
34 relationship between a qualified employee and an employer shall
35 not be treated as terminated if the employee continues to be
36 employed in that trade or business.

37 (f) (1) (A) If the employment, other than seasonal
38 employment, of any qualified employee, with respect to whom
39 qualified wages are taken into account under subdivision (a) is
40 terminated by the qualified taxpayer at any time during the first

1 270 days of that employment (whether or not consecutive) or
2 before the close of the 270th calendar day after the day in which
3 that employee completes 90 days of employment with the
4 qualified taxpayer, the tax imposed by this part for the taxable
5 year in which that employment is terminated shall be increased
6 by an amount equal to the credit allowed under subdivision (a)
7 for that taxable year and all prior taxable years attributable to
8 qualified wages paid or incurred with respect to that employee.

9 (B) If the seasonal employment of any qualified employee,
10 with respect to whom qualified wages are taken into account
11 under subdivision (a) is not continued by the qualified taxpayer
12 for a period of 270 days of employment during the 60-month
13 period beginning with the day the qualified employee
14 commences seasonal employment with the qualified taxpayer,
15 the tax imposed by this part, for the taxable year that includes the
16 60th month following the month in which the qualified employee
17 commences seasonal employment with the qualified taxpayer,
18 shall be increased by an amount equal to the credit allowed under
19 subdivision (a) for that taxable year and all prior taxable years
20 attributable to qualified wages paid or incurred with respect to
21 that qualified employee.

22 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
23 any of the following:

24 (i) A termination of employment of a qualified employee who
25 voluntarily leaves the employment of the qualified taxpayer.

26 (ii) A termination of employment of a qualified employee
27 who, before the close of the period referred to in subparagraph
28 (A) of paragraph (1), becomes disabled and unable to perform the
29 services of that employment, unless that disability is removed
30 before the close of that period and the qualified taxpayer fails to
31 offer reemployment to that employee.

32 (iii) A termination of employment of a qualified employee, if
33 it is determined that the termination was due to the misconduct
34 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
35 of the California Code of Regulations) of that employee.

36 (iv) A termination of employment of a qualified employee due
37 to a substantial reduction in the trade or business operations of
38 the qualified taxpayer.

39 (v) A termination of employment of a qualified employee, if
40 that employee is replaced by other qualified employees so as to

1 create a net increase in both the number of employees and the
2 hours of employment.

3 (B) Subparagraph (B) of paragraph (1) shall not apply to any
4 of the following:

5 (i) A failure to continue the seasonal employment of a
6 qualified employee who voluntarily fails to return to the seasonal
7 employment of the qualified taxpayer.

8 (ii) A failure to continue the seasonal employment of a
9 qualified employee who, before the close of the period referred to
10 in subparagraph (B) of paragraph (1), becomes disabled and
11 unable to perform the services of that seasonal employment,
12 unless that disability is removed before the close of that period
13 and the qualified taxpayer fails to offer seasonal employment to
14 that qualified employee.

15 (iii) A failure to continue the seasonal employment of a
16 qualified employee, if it is determined that the failure to continue
17 the seasonal employment was due to the misconduct (as defined
18 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
19 California Code of Regulations) of that qualified employee.

20 (iv) A failure to continue seasonal employment of a qualified
21 employee due to a substantial reduction in the regular seasonal
22 trade or business operations of the qualified taxpayer.

23 (v) A failure to continue the seasonal employment of a
24 qualified employee, if that qualified employee is replaced by
25 other qualified employees so as to create a net increase in both
26 the number of seasonal employees and the hours of seasonal
27 employment.

28 (C) For purposes of paragraph (1), the employment
29 relationship between the qualified taxpayer and a qualified
30 employee shall not be treated as terminated by reason of a mere
31 change in the form of conducting the trade or business of the
32 qualified taxpayer, if the qualified employee continues to be
33 employed in that trade or business and the qualified taxpayer
34 retains a substantial interest in that trade or business.

35 (3) Any increase in tax under paragraph (1) shall not be treated
36 as tax imposed by this part for purposes of determining the
37 amount of any credit allowable under this part.

38 (g) In the case of an estate or trust, both of the following
39 apply:

1 (1) The qualified wages for any taxable year shall be
2 apportioned between the estate or trust and the beneficiaries on
3 the basis of the income of the estate or trust allocable to each.

4 (2) Any beneficiary to whom any qualified wages have been
5 apportioned under paragraph (1) shall be treated, for purposes of
6 this part, as the employer with respect to those wages.

7 (h) For purposes of this section, “targeted tax area” means an
8 area designated pursuant to Chapter 12.93 (commencing with
9 Section 7097) of Division 7 of Title 1 of the Government Code.

10 (i) In the case where the credit otherwise allowed under this
11 section exceeds the “net tax” for the taxable year, that portion of
12 the credit that exceeds the “net tax” may be carried over and
13 added to the credit, if any, in succeeding taxable years, until the
14 credit is exhausted. The credit shall be applied first to the earliest
15 taxable years possible.

16 (j) (1) The amount of the credit otherwise allowed under this
17 section and Section 17053.33, including any credit carryover
18 from prior years, that may reduce the “net tax” for the taxable
19 year shall not exceed the amount of tax that would be imposed on
20 the qualified taxpayer’s business income attributable to the
21 targeted tax area determined as if that attributable income
22 represented all of the income of the qualified taxpayer subject to
23 tax under this part.

24 (2) Attributable income shall be that portion of the taxpayer’s
25 California source business income that is apportioned to the
26 targeted tax area. For that purpose, the taxpayer’s business
27 income attributable to sources in this state first shall be
28 determined in accordance with Chapter 17 (commencing with
29 Section 25101) of Part 11. That business income shall be further
30 apportioned to the targeted tax area in accordance with Article 2
31 (commencing with Section 25120) of Chapter 17 of Part 11,
32 modified for purposes of this section in accordance with
33 paragraph (3).

34 (3) Business income shall be apportioned to the targeted tax
35 area by multiplying the total California business income of the
36 taxpayer by a fraction, the numerator of which is the property
37 factor plus the payroll factor, and the denominator of which is
38 two. For purposes of this paragraph:

39 (A) The property factor is a fraction, the numerator of which is
40 the average value of the taxpayer’s real and tangible personal

1 property owned or rented and used in the targeted tax area during
2 the taxable year, and the denominator of which is the average
3 value of all the taxpayer's real and tangible personal property
4 owned or rented and used in this state during the taxable year.

5 (B) The payroll factor is a fraction, the numerator of which is
6 the total amount paid by the taxpayer in the targeted tax area
7 during the taxable year for compensation, and the denominator of
8 which is the total compensation paid by the taxpayer in this state
9 during the taxable year.

10 (4) The portion of any credit remaining, if any, after
11 application of this subdivision, shall be carried over to
12 succeeding taxable years, as if it were an amount exceeding the
13 "net tax" for the taxable year, as provided in subdivision (h).

14 (5) In the event that a credit carryover is allowable under
15 subdivision (h) for any taxable year after the targeted tax area
16 expiration date, the targeted tax area shall be deemed to remain
17 in existence for purposes of computing the limitation specified in
18 this subdivision.

19 *(k) (1) The credit authorized by this section shall not be*
20 *applicable on or after January 1, 2007.*

21 *(2) On or after January 1, 2007, taxpayers that would*
22 *otherwise be eligible to claim a credit authorized by this section,*
23 *may claim a credit for these expenses under Section 17053.76.*

24 *(3) Notwithstanding this subdivision, the provisions of*
25 *subdivision (d) of Section 17039 shall apply with respect to any*
26 *remaining carryover of the credit previously authorized by this*
27 *section.*

28 *SEC. 17. Section 17053.46 of the Revenue and Taxation Code*
29 *is amended to read:*

30 17053.46. (a) For each taxable year beginning on or after
31 January 1, 1995, there shall be allowed as a credit against the
32 "net tax" (as defined in Section 17039) to a qualified taxpayer for
33 hiring a qualified disadvantaged individual or a qualified
34 displaced employee during the taxable year for employment in
35 the LAMBRA. The credit shall be equal to the sum of each of the
36 following:

37 (1) Fifty percent of the qualified wages in the first year of
38 employment.

39 (2) Forty percent of the qualified wages in the second year of
40 employment.

1 (3) Thirty percent of the qualified wages in the third year of
2 employment.

3 (4) Twenty percent of the qualified wages in the fourth year of
4 employment.

5 (5) Ten percent of the qualified wages in the fifth year of
6 employment.

7 (b) For purposes of this section:

8 (1) “Qualified wages” means:

9 (A) That portion of wages paid or incurred by the employer
10 during the taxable year to qualified disadvantaged individuals or
11 qualified displaced employees that does not exceed 150 percent
12 of the minimum wage.

13 (B) The total amount of qualified wages which may be taken
14 into account for purposes of claiming the credit allowed under
15 this section shall not exceed two million dollars (\$2,000,000) per
16 taxable year.

17 (C) Wages received during the 60-month period beginning
18 with the first day the individual commences employment with the
19 taxpayer. Reemployment in connection with any increase,
20 including a regularly occurring seasonal increase, in the trade or
21 business operations of the qualified taxpayer does not constitute
22 commencement of employment for purposes of this section.

23 (D) Qualified wages do not include any wages paid or incurred
24 by the qualified taxpayer on or after the LAMBRA expiration
25 date. However, wages paid or incurred with respect to qualified
26 disadvantaged individuals or qualified displaced employees who
27 are employed by the qualified taxpayer within the LAMBRA
28 within the 60-month period prior to the LAMBRA expiration
29 date shall continue to qualify for the credit under this section
30 after the LAMBRA expiration date, in accordance with all
31 provisions of this section applied as if the LAMBRA designation
32 were still in existence and binding.

33 (2) “Minimum wage” means the wage established by the
34 Industrial Welfare Commission as provided for in Chapter 1
35 (commencing with Section 1171) of Part 4 of Division 2 of the
36 Labor Code.

37 (3) “LAMBRA” means a local agency military base recovery
38 area designated in accordance with Section 7114 of the
39 Government Code.

1 (4) “Qualified disadvantaged individual” means an individual
2 who satisfies all of the following requirements:

3 (A) (i) At least 90 percent of whose services for the taxpayer
4 during the taxable year are directly related to the conduct of the
5 taxpayer’s trade or business located in a LAMBRA.

6 (ii) Who performs at least 50 percent of his or her services for
7 the taxpayer during the taxable year in the LAMBRA.

8 (B) Who is hired by the employer after the designation of the
9 area as a LAMBRA in which the individual’s services were
10 primarily performed.

11 (C) Who is any of the following immediately preceding the
12 individual’s commencement of employment with the taxpayer:

13 (i) An individual who has been determined eligible for
14 services under the federal Job Training Partnership Act (29
15 U.S.C. Sec. 1501 et seq.).

16 (ii) Any voluntary or mandatory registrant under the Greater
17 Avenues for Independence Act of 1985 as provided pursuant to
18 Article 3.2 (commencing with Section 11320) of Chapter 2 of
19 Part 3 of Division 9 of the Welfare and Institutions Code.

20 (iii) An economically disadvantaged individual age 16 years or
21 older.

22 (iv) A dislocated worker who meets any of the following
23 conditions:

24 (I) Has been terminated or laid off or who has received a
25 notice of termination or layoff from employment, is eligible for
26 or has exhausted entitlement to unemployment insurance
27 benefits, and is unlikely to return to his or her previous industry
28 or occupation.

29 (II) Has been terminated or has received a notice of
30 termination of employment as a result of any permanent closure
31 or any substantial layoff at a plant, facility, or enterprise,
32 including an individual who has not received written notification
33 but whose employer has made a public announcement of such a
34 closure or layoff.

35 (III) Is long-term unemployed and has limited opportunities
36 for employment or reemployment in the same or a similar
37 occupation in the area in which the individual resides, including
38 an individual 55 years of age or older who may have substantial
39 barriers to employment by reason of age.

1 (IV) Was self-employed (including farmers and ranchers) and
2 is unemployed as a result of general economic conditions in the
3 community in which he or she resides or because of natural
4 disasters.

5 (V) Was a civilian employee of the Department of Defense
6 employed at a military installation being closed or realigned
7 under the Defense Base Closure and Realignment Act of 1990.

8 (VI) Was an active member of the armed forces or National
9 Guard as of September 30, 1990, and was either involuntarily
10 separated or separated pursuant to a special benefits program.

11 (VII) Experiences chronic seasonal unemployment and
12 underemployment in the agriculture industry, aggravated by
13 continual advancements in technology and mechanization.

14 (VIII) Has been terminated or laid off or has received a notice
15 of termination or layoff as a consequence of compliance with the
16 Clean Air Act.

17 (v) An individual who is enrolled in or has completed a state
18 rehabilitation plan or is a service-connected disabled veteran,
19 veteran of the Vietnam era, or veteran who is recently separated
20 from military service.

21 (vi) An ex-offender. An individual shall be treated as
22 convicted if he or she was placed on probation by a state court
23 without a finding of guilty.

24 (vii) A recipient of:

25 (I) Federal Supplemental Security Income benefits.

26 (II) Aid to Families with Dependent Children.

27 (III) Food stamps.

28 (IV) State and local general assistance.

29 (viii) Is a member of a federally recognized Indian tribe, band,
30 or other group of Native American descent.

31 (5) “Qualified taxpayer” means a taxpayer or partnership that
32 conducts a trade or business within a LAMBRA and, for the first
33 two taxable years, has a net increase in jobs (defined as 2,000
34 paid hours per employee per year) of one or more employees in
35 the LAMBRA.

36 (A) The net increase in the number of jobs shall be determined
37 by subtracting the total number of full-time employees (defined
38 as 2,000 paid hours per employee per year) the taxpayer
39 employed in this state in the taxable year prior to commencing
40 business operations in the LAMBRA from the total number of

1 full-time employees the taxpayer employed in this state during
2 the second taxable year after commencing business operations in
3 the LAMBRA. For taxpayers who commence doing business in
4 this state with their LAMBRA business operation, the number of
5 employees for the taxable year prior to commencing business
6 operations in the LAMBRA shall be zero. If the taxpayer has a
7 net increase in jobs in the state, the credit shall be allowed only if
8 one or more full-time employees is employed within the
9 LAMBRA.

10 (B) The total number of employees employed in the
11 LAMBRA shall equal the sum of both of the following:

12 (i) The total number of hours worked in the LAMBRA for the
13 taxpayer by employees (not to exceed 2,000 hours per employee)
14 who are paid an hourly wage divided by 2,000.

15 (ii) The total number of months worked in the LAMBRA for
16 the taxpayer by employees who are salaried employees divided
17 by 12.

18 (C) In the case of a taxpayer who first commences doing
19 business in the LAMBRA during the taxable year, for purposes
20 of clauses (i) and (ii), respectively, of subparagraph (B), the
21 divisors “2,000” and “12” shall be multiplied by a fraction, the
22 numerator of which is the number of months of the taxable year
23 that the taxpayer was doing business in the LAMBRA and the
24 denominator of which is 12.

25 (6) “Qualified displaced employee” means an individual who
26 satisfies all of the following requirements:

27 (A) Any civilian or military employee of a base or former base
28 who has been displaced as a result of a federal base closure act.

29 (B) (i) At least 90 percent of whose services for the taxpayer
30 during the taxable year are directly related to the conduct of the
31 taxpayer’s trade or business located in a LAMBRA.

32 (ii) Who performs at least 50 percent of his or her services for
33 the taxpayer during the taxable year in a LAMBRA.

34 (C) Who is hired by the employer after the designation of the
35 area in which services were performed as a LAMBRA.

36 (7) “Seasonal employment” means employment by a qualified
37 taxpayer that has regular and predictable substantial reductions in
38 trade or business operations.

(8) “LAMBRA expiration date” means the date the LAMBRA designation expires, is no longer binding, or becomes inoperative.

(c) For qualified disadvantaged individuals or qualified displaced employees hired on or after January 1, 2001, the taxpayer shall do both of the following:

(1) Obtain from either the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office, or social services agency, as appropriate, a certification that provides that a qualified disadvantaged individual or qualified displaced employee meets the eligibility requirements specified in subparagraph (C) of paragraph (4) of subdivision (b) or subparagraph (A) of paragraph (6) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section, both of the following apply:

(A) All employees of trades or businesses that are under common control shall be treated as employed by a single employer.

(B) The credit (if any) allowable by this section with respect to each trade or business shall be determined by reference to its proportionate share of the qualified wages giving rise to the credit.

The regulations prescribed under this paragraph shall be based on principles similar to the principles that apply in the case of controlled groups of corporations as specified in subdivision (e) of Section 23622.

(2) If an employer acquires the major portion of a trade or business of another employer (hereinafter in this paragraph referred to as the “predecessor”) or the major portion of a separate unit of a trade or business of a predecessor, then, for purposes of applying this section (other than subdivision (d)) for any calendar year ending after that acquisition, the employment relationship between an employee and an employer shall not be

1 treated as terminated if the employee continues to be employed
2 in that trade or business.

3 (e) (1) (A) If the employment, other than seasonal
4 employment, of any employee, with respect to whom qualified
5 wages are taken into account under subdivision (a) is terminated
6 by the taxpayer at any time during the first 270 days of that
7 employment (whether or not consecutive) or before the close of
8 the 270th calendar day after the day in which that employee
9 completes 90 days of employment with the taxpayer, the tax
10 imposed by this part for the taxable year in which that
11 employment is terminated shall be increased by an amount
12 (determined under those regulations) equal to the credit allowed
13 under subdivision (a) for that taxable year and all prior taxable
14 years attributable to qualified wages paid or incurred with respect
15 to that employee.

16 (B) If the seasonal employment of any qualified disadvantaged
17 individual, with respect to whom qualified wages are taken into
18 account under subdivision (a) is not continued by the qualified
19 taxpayer for a period of 270 days of employment during the
20 60-month period beginning with the day the qualified
21 disadvantaged individual commences seasonal employment with
22 the qualified taxpayer, the tax imposed by this part, for the
23 taxable year that includes the 60th month following the month in
24 which the qualified disadvantaged individual commences
25 seasonal employment with the qualified taxpayer, shall be
26 increased by an amount equal to the credit allowed under
27 subdivision (a) for that taxable year and all prior taxable years
28 attributable to qualified wages paid or incurred with respect to
29 that qualified disadvantaged individual.

30 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
31 any of the following:

32 (i) A termination of employment of an employee who
33 voluntarily leaves the employment of the taxpayer.

34 (ii) A termination of employment of an individual who, before
35 the close of the period referred to in subparagraph (A) of
36 paragraph (1), becomes disabled to perform the services of that
37 employment, unless that disability is removed before the close of
38 that period and the taxpayer fails to offer reemployment to that
39 individual.

1 (iii) A termination of employment of an individual, if it is
2 determined that the termination was due to the misconduct (as
3 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
4 the California Code of Regulations) of that individual.

5 (iv) A termination of employment of an individual due to a
6 substantial reduction in the trade or business operations of the
7 taxpayer.

8 (v) A termination of employment of an individual, if that
9 individual is replaced by other qualified employees so as to
10 create a net increase in both the number of employees and the
11 hours of employment.

12 (B) Subparagraph (B) of paragraph (1) shall not apply to any
13 of the following:

14 (i) A failure to continue the seasonal employment of a
15 qualified disadvantaged individual who voluntarily fails to return
16 to the seasonal employment of the qualified taxpayer.

17 (ii) A failure to continue the seasonal employment of a
18 qualified disadvantaged individual who, before the close of the
19 period referred to in subparagraph (B) of paragraph (1), becomes
20 disabled and unable to perform the services of that seasonal
21 employment, unless that disability is removed before the close of
22 that period and the qualified taxpayer fails to offer seasonal
23 employment to that individual.

24 (iii) A failure to continue the seasonal employment of a
25 qualified disadvantaged individual, if it is determined that the
26 failure to continue the seasonal employment was due to the
27 misconduct (as defined in Sections 1256-30 to 1256-43,
28 inclusive, of Title 22 of the California Code of Regulations) of
29 that qualified disadvantaged individual.

30 (iv) A failure to continue seasonal employment of a qualified
31 disadvantaged individual due to a substantial reduction in the
32 regular seasonal trade or business operations of the qualified
33 taxpayer.

34 (v) A failure to continue the seasonal employment of a
35 qualified disadvantaged individual, if that individual is replaced
36 by other qualified displaced employees so as to create a net
37 increase in both the number of seasonal employees and the hours
38 of seasonal employment.

39 (C) For purposes of paragraph (1), the employment
40 relationship between the taxpayer and an employee shall not be

1 treated as terminated by reason of a mere change in the form of
2 conducting the trade or business of the taxpayer, if the employee
3 continues to be employed in that trade or business and the
4 taxpayer retains a substantial interest in that trade or business.

5 (3) Any increase in tax under paragraph (1) shall not be treated
6 as tax imposed by this part for purposes of determining the
7 amount of any credit allowable under this part.

8 (4) At the close of the second taxable year, if the taxpayer has
9 not increased the number of its employees as determined by
10 paragraph (5) of subdivision (b), then the amount of the credit
11 previously claimed shall be added to the taxpayer's net tax for
12 the taxpayer's second taxable year.

13 (f) In the case of an estate or trust, both of the following apply:

14 (1) The qualified wages for any taxable year shall be
15 apportioned between the estate or trust and the beneficiaries on
16 the basis of the income of the estate or trust allocable to each.

17 (2) Any beneficiary to whom any qualified wages have been
18 apportioned under paragraph (1) shall be treated (for purposes of
19 this part) as the employer with respect to those wages.

20 (g) The credit shall be reduced by the credit allowed under
21 Section 17053.7. The credit shall also be reduced by the federal
22 credit allowed under Section 51 of the Internal Revenue Code.

23 In addition, any deduction otherwise allowed under this part
24 for the wages or salaries paid or incurred by the taxpayer upon
25 which the credit is based shall be reduced by the amount of the
26 credit, prior to any reduction required by subdivision (h) or (i).

27 (h) In the case where the credit otherwise allowed under this
28 section exceeds the "net tax" for the taxable year, that portion of
29 the credit that exceeds the "net tax" may be carried over and
30 added to the credit, if any, in succeeding years, until the credit is
31 exhausted. The credit shall be applied first to the earliest taxable
32 years possible.

33 (i) (1) The amount of credit otherwise allowed under this
34 section and Section 17053.45, including prior year credit
35 carryovers, that may reduce the "net tax" for the taxable year
36 shall not exceed the amount of tax that would be imposed on the
37 taxpayer's business income attributed to a LAMBRA determined
38 as if that attributed income represented all of the net income of
39 the taxpayer subject to tax under this part.

(2) Attributable income shall be that portion of the taxpayer's California source business income that is apportioned to the LAMBRA. For that purpose, the taxpayer's business income that is attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the LAMBRA in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this section in accordance with paragraph (3).

(3) Income shall be apportioned to a LAMBRA by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the LAMBRA during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the LAMBRA during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "net tax" for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(k) (1) The credit authorized by this section shall not be applicable on or after January 1, 2007.

(2) On or after January 1, 2007, taxpayers that would otherwise be eligible to claim a credit authorized by this section, may claim a credit for these expenses under Section 17053.76.

(3) Notwithstanding this subdivision, the provisions of subdivision (d) of Section 17039 shall apply with respect to any

1 *remaining carryover of the credit previously authorized by this*
2 *section.*

3 *SEC. 18. Section 17053.47 of the Revenue and Taxation Code*
4 *is amended to read:*

5 17053.47. (a) For each taxable year beginning on or after
6 January 1, 1998, there shall be allowed a credit against the “net
7 tax” (as defined in Section 17039) to a qualified taxpayer for
8 hiring a qualified disadvantaged individual during the taxable
9 year for employment in the Manufacturing Enhancement Area.
10 The credit shall be equal to the sum of each of the following:

11 (1) Fifty percent of the qualified wages in the first year of
12 employment.

13 (2) Forty percent of the qualified wages in the second year of
14 employment.

15 (3) Thirty percent of the qualified wages in the third year of
16 employment.

17 (4) Twenty percent of the qualified wages in the fourth year of
18 employment.

19 (5) Ten percent of the qualified wages in the fifth year of
20 employment.

21 (b) For purposes of this section:

22 (1) “Qualified wages” means:

23 (A) That portion of wages paid or incurred by the qualified
24 taxpayer during the taxable year to qualified disadvantaged
25 individuals that does not exceed 150 percent of the minimum
26 wage.

27 (B) The total amount of qualified wages which may be taken
28 into account for purposes of claiming the credit allowed under
29 this section shall not exceed two million dollars (\$2,000,000) per
30 taxable year.

31 (C) Wages received during the 60-month period beginning
32 with the first day the qualified disadvantaged individual
33 commences employment with the qualified taxpayer.
34 Reemployment in connection with any increase, including a
35 regularly occurring seasonal increase, in the trade or business
36 operations of the taxpayer does not constitute commencement of
37 employment for purposes of this section.

38 (D) Qualified wages do not include any wages paid or incurred
39 by the qualified taxpayer on or after the Manufacturing
40 Enhancement Area expiration date. However, wages paid or

1 incurred with respect to qualified employees who are employed
2 by the qualified taxpayer within the Manufacturing Enhancement
3 Area within the 60-month period prior to the Manufacturing
4 Enhancement Area expiration date shall continue to qualify for
5 the credit under this section after the Manufacturing
6 Enhancement Area expiration date, in accordance with all
7 provisions of this section applied as if the Manufacturing
8 Enhancement Area designation were still in existence and
9 binding.

10 (2) “Minimum wage” means the wage established by the
11 Industrial Welfare Commission as provided for in Chapter 1
12 (commencing with Section 1171) of Part 4 of Division 2 of the
13 Labor Code.

14 (3) “Manufacturing Enhancement Area” means an area
15 designated pursuant to Section 7073.8 of the Government Code
16 according to the procedures of Chapter 12.8 (commencing with
17 Section 7070) of Division 7 of Title 1 of the Government Code.

18 (4) “Manufacturing Enhancement Area expiration date” means
19 the date the Manufacturing Enhancement Area designation
20 expires, is no longer binding, or becomes inoperative.

21 (5) “Qualified disadvantaged individual” means an individual
22 who satisfies all of the following requirements:

23 (A) (i) At least 90 percent of whose services for the qualified
24 taxpayer during the taxable year are directly related to the
25 conduct of the qualified taxpayer’s trade or business located in a
26 Manufacturing Enhancement Area.

27 (ii) Who performs at least 50 percent of his or her services for
28 the qualified taxpayer during the taxable year in the
29 Manufacturing Enhancement Area.

30 (B) Who is hired by the qualified taxpayer after the
31 designation of the area as a Manufacturing Enhancement Area in
32 which the individual’s services were primarily performed.

33 (C) Who is any of the following immediately preceding the
34 individual’s commencement of employment with the qualified
35 taxpayer:

36 (i) An individual who has been determined eligible for
37 services under the federal Job Training Partnership Act (29
38 U.S.C. Sec. 1501 et seq.), or its successor.

39 (ii) Any voluntary or mandatory registrant under the Greater
40 Avenues for Independence Act of 1985, or its successor, as

1 provided pursuant to Article 3.2 (commencing with Section
2 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
3 Institutions Code.

4 (iii) Any individual who has been certified eligible by the
5 Employment Development Department under the federal
6 Targeted Jobs Tax Credit Program, or its successor, whether or
7 not this program is in effect.

8 (6) “Qualified taxpayer” means any taxpayer engaged in a
9 trade or business within a Manufacturing Enhancement Area
10 designated pursuant to Section 7073.8 of the Government Code
11 and who meets both of the following requirements:

12 (A) Is engaged in those lines of business described in Codes
13 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
14 inclusive, of the Standard Industrial Classification (SIC) Manual
15 published by the United States Office of Management and
16 Budget, 1987 edition.

17 (B) At least 50 percent of the qualified taxpayer’s workforce
18 hired after the designation of the Manufacturing Enhancement
19 Area is composed of individuals who, at the time of hire, are
20 residents of the county in which the Manufacturing Enhancement
21 Area is located.

22 (C) Of this percentage of local hires, at least 30 percent shall
23 be qualified disadvantaged individuals.

24 (7) “Seasonal employment” means employment by a qualified
25 taxpayer that has regular and predictable substantial reductions in
26 trade or business operations.

27 (c) (1) For purposes of this section, all of the following apply:

28 (A) All employees of trades or businesses that are under
29 common control shall be treated as employed by a single
30 qualified taxpayer.

31 (B) The credit (if any) allowable by this section with respect to
32 each trade or business shall be determined by reference to its
33 proportionate share of the expense of the qualified wages giving
34 rise to the credit and shall be allocated in that manner.

35 (C) Principles that apply in the case of controlled groups of
36 corporations, as specified in subdivision (d) of Section 23622.7,
37 shall apply with respect to determining employment.

38 (2) If a qualified taxpayer acquires the major portion of a trade
39 or business of another employer (hereinafter in this paragraph
40 referred to as the “predecessor”) or the major portion of a

1 separate unit of a trade or business of a predecessor, then, for
2 purposes of applying this section (other than subdivision (d)) for
3 any calendar year ending after that acquisition, the employment
4 relationship between a qualified disadvantaged individual and a
5 qualified taxpayer shall not be treated as terminated if the
6 qualified disadvantaged individual continues to be employed in
7 that trade or business.

8 (d) (1) (A) If the employment, other than seasonal
9 employment, of any qualified disadvantaged individual, with
10 respect to whom qualified wages are taken into account under
11 subdivision (b) is terminated by the qualified taxpayer at any
12 time during the first 270 days of that employment (whether or not
13 consecutive) or before the close of the 270th calendar day after
14 the day in which that qualified disadvantaged individual
15 completes 90 days of employment with the qualified taxpayer,
16 the tax imposed by this part for the taxable year in which that
17 employment is terminated shall be increased by an amount equal
18 to the credit allowed under subdivision (a) for that taxable year
19 and all prior taxable years attributable to qualified wages paid or
20 incurred with respect to that qualified disadvantaged individual.

21 (B) If the seasonal employment of any qualified disadvantaged
22 individual, with respect to whom qualified wages are taken into
23 account under subdivision (a) is not continued by the qualified
24 taxpayer for a period of 270 days of employment during the
25 60-month period beginning with the day the qualified
26 disadvantaged individual commences seasonal employment with
27 the qualified taxpayer, the tax imposed by this part, for the
28 taxable year that includes the 60th month following the month in
29 which the qualified disadvantaged individual commences
30 seasonal employment with the qualified taxpayer, shall be
31 increased by an amount equal to the credit allowed under
32 subdivision (a) for that taxable year and all prior taxable years
33 attributable to qualified wages paid or incurred with respect to
34 that qualified disadvantaged individual.

35 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
36 any of the following:

37 (i) A termination of employment of a qualified disadvantaged
38 individual who voluntarily leaves the employment of the
39 qualified taxpayer.

1 (ii) A termination of employment of a qualified disadvantaged
2 individual who, before the close of the period referred to in
3 subparagraph (A) of paragraph (1), becomes disabled to perform
4 the services of that employment, unless that disability is removed
5 before the close of that period and the taxpayer fails to offer
6 reemployment to that individual.

7 (iii) A termination of employment of a qualified disadvantaged
8 individual, if it is determined that the termination was due to the
9 misconduct (as defined in Sections 1256-30 to 1256-43,
10 inclusive, of Title 22 of the California Code of Regulations) of
11 that individual.

12 (iv) A termination of employment of a qualified disadvantaged
13 individual due to a substantial reduction in the trade or business
14 operations of the qualified taxpayer.

15 (v) A termination of employment of a qualified disadvantaged
16 individual, if that individual is replaced by other qualified
17 disadvantaged individuals so as to create a net increase in both
18 the number of employees and the hours of employment.

19 (B) Subparagraph (B) of paragraph (1) shall not apply to any
20 of the following:

21 (i) A failure to continue the seasonal employment of a
22 qualified disadvantaged individual who voluntarily fails to return
23 to the seasonal employment of the qualified taxpayer.

24 (ii) A failure to continue the seasonal employment of a
25 qualified disadvantaged individual who, before the close of the
26 period referred to in subparagraph (B) of paragraph (1), becomes
27 disabled and unable to perform the services of that seasonal
28 employment, unless that disability is removed before the close of
29 that period and the qualified taxpayer fails to offer seasonal
30 employment to that qualified disadvantaged individual.

31 (iii) A failure to continue the seasonal employment of a
32 qualified disadvantaged individual, if it is determined that the
33 failure to continue the seasonal employment was due to the
34 misconduct (as defined in Sections 1256-30 to 1256-43,
35 inclusive, of Title 22 of the California Code of Regulations) of
36 that qualified disadvantaged individual.

37 (iv) A failure to continue seasonal employment of a qualified
38 disadvantaged individual due to a substantial reduction in the
39 regular seasonal trade or business operations of the qualified
40 taxpayer.

1 (v) A failure to continue the seasonal employment of a
2 qualified disadvantaged individual, if that qualified
3 disadvantaged individual is replaced by other qualified
4 disadvantaged individuals so as to create a net increase in both
5 the number of seasonal employees and the hours of seasonal
6 employment.

7 (C) For purposes of paragraph (1), the employment
8 relationship between the qualified taxpayer and a qualified
9 disadvantaged individual shall not be treated as terminated by
10 reason of a mere change in the form of conducting the trade or
11 business of the qualified taxpayer, if the qualified disadvantaged
12 individual continues to be employed in that trade or business and
13 the qualified taxpayer retains a substantial interest in that trade or
14 business.

15 (3) Any increase in tax under paragraph (1) shall not be treated
16 as tax imposed by this part for purposes of determining the
17 amount of any credit allowable under this part.

18 (e) In the case of an estate or trust, both of the following
19 apply:

20 (1) The qualified wages for any taxable year shall be
21 apportioned between the estate or trust and the beneficiaries on
22 the basis of the income of the estate or trust allocable to each.

23 (2) Any beneficiary to whom any qualified wages have been
24 apportioned under paragraph (1) shall be treated (for purposes of
25 this part) as the employer with respect to those wages.

26 (f) The credit shall be reduced by the credit allowed under
27 Section 17053.7. The credit shall also be reduced by the federal
28 credit allowed under Section 51 of the Internal Revenue Code.

29 In addition, any deduction otherwise allowed under this part
30 for the wages or salaries paid or incurred by the qualified
31 taxpayer upon which the credit is based shall be reduced by the
32 amount of the credit, prior to any reduction required by
33 subdivision (g) or (h).

34 (g) In the case where the credit otherwise allowed under this
35 section exceeds the “net tax” for the taxable year, that portion of
36 the credit that exceeds the “net tax” may be carried over and
37 added to the credit, if any, in succeeding years, until the credit is
38 exhausted. The credit shall be applied first to the earliest taxable
39 years possible.

1 (h) (1) The amount of credit otherwise allowed under this
2 section, including prior year credit carryovers, that may reduce
3 the “net tax” for the taxable year shall not exceed the amount of
4 tax that would be imposed on the qualified taxpayer’s business
5 income attributed to a Manufacturing Enhancement Area
6 determined as if that attributed income represented all of the net
7 income of the qualified taxpayer subject to tax under this part.

8 (2) Attributable income shall be that portion of the taxpayer’s
9 California source business income that is apportioned to the
10 Manufacturing Enhancement Area. For that purpose, the
11 taxpayer’s business income that is attributable to sources in this
12 state first shall be determined in accordance with Chapter 17
13 (commencing with Section 25101) of Part 11. That business
14 income shall be further apportioned to the Manufacturing
15 Enhancement Area in accordance with Article 2 (commencing
16 with Section 25120) of Chapter 17 of Part 11, modified for
17 purposes of this section in accordance with paragraph (3).

18 (3) Income shall be apportioned to a Manufacturing
19 Enhancement Area by multiplying the total California business
20 income of the taxpayer by a fraction, the numerator of which is
21 the property factor plus the payroll factor, and the denominator of
22 which is two. For purposes of this paragraph:

23 (A) The property factor is a fraction, the numerator of which is
24 the average value of the taxpayer’s real and tangible personal
25 property owned or rented and used in the Manufacturing
26 Enhancement Area during the taxable year, and the denominator
27 of which is the average value of all the taxpayer’s real and
28 tangible personal property owned or rented and used in this state
29 during the taxable year.

30 (B) The payroll factor is a fraction, the numerator of which is
31 the total amount paid by the taxpayer in the Manufacturing
32 Enhancement Area during the taxable year for compensation, and
33 the denominator of which is the total compensation paid by the
34 taxpayer in this state during the taxable year.

35 (4) The portion of any credit remaining, if any, after
36 application of this subdivision, shall be carried over to
37 succeeding taxable years, as if it were an amount exceeding the
38 “net tax” for the taxable year, as provided in subdivision (g).

39 (i) If the taxpayer is allowed a credit pursuant to this section
40 for qualified wages paid or incurred, only one credit shall be

1 allowed to the taxpayer under this part with respect to any wage
2 consisting in whole or in part of those qualified wages.

3 (j) (1) *The credit authorized by this section shall not be*
4 *applicable on or after January 1, 2007.*

5 (2) *On or after January 1, 2007, taxpayers that would*
6 *otherwise be eligible to claim a credit authorized by this section,*
7 *may claim a credit for these expenses under Section 17053.76.*

8 (3) *Notwithstanding this subdivision, the provisions of*
9 *subdivision (d) of Section 17039 shall apply with respect to any*
10 *remaining carryover of the credit previously authorized by this*
11 *section.*

12 SEC. 19. *Section 17053.74 of the Revenue and Taxation Code*
13 *is amended to read:*

14 17053.74. (a) There shall be allowed a credit against the “net
15 tax” (as defined in Section 17039) to a taxpayer who employs a
16 qualified employee in an enterprise zone during the taxable year.
17 The credit shall be equal to the sum of each of the following:

18 (1) Fifty percent of qualified wages in the first year of
19 employment.

20 (2) Forty percent of qualified wages in the second year of
21 employment.

22 (3) Thirty percent of qualified wages in the third year of
23 employment.

24 (4) Twenty percent of qualified wages in the fourth year of
25 employment.

26 (5) Ten percent of qualified wages in the fifth year of
27 employment.

28 (b) For purposes of this section:

29 (1) “Qualified wages” means:

30 (A) (i) Except as provided in clause (ii), that portion of wages
31 paid or incurred by the taxpayer during the taxable year to
32 qualified employees that does not exceed 150 percent of the
33 minimum wage.

34 (ii) For up to 1,350 qualified employees who are employed by
35 the taxpayer in the Long Beach Enterprise Zone in aircraft
36 manufacturing activities described in Codes 3721 to 3728,
37 inclusive, and Code 3812 of the Standard Industrial
38 Classification (SIC) Manual published by the United States
39 Office of Management and Budget, 1987 edition, “qualified

wages” means that portion of hourly wages that does not exceed 202 percent of the minimum wage.

(B) Wages received during the 60-month period beginning with the first day the employee commences employment with the taxpayer. Reemployment in connection with any increase, including a regularly occurring seasonal increase, in the trade or business operations of the taxpayer does not constitute commencement of employment for purposes of this section.

(C) Qualified wages do not include any wages paid or incurred by the taxpayer on or after the zone expiration date. However, wages paid or incurred with respect to qualified employees who are employed by the taxpayer within the enterprise zone within the 60-month period prior to the zone expiration date shall continue to qualify for the credit under this section after the zone expiration date, in accordance with all provisions of this section applied as if the enterprise zone designation were still in existence and binding.

(2) “Minimum wage” means the wage established by the Industrial Welfare Commission as provided for in Chapter 1 (commencing with Section 1171) of Part 4 of Division 2 of the Labor Code.

(3) “Zone expiration date” means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(4) (A) “Qualified employee” means an individual who meets all of the following requirements:

(i) At least 90 percent of whose services for the taxpayer during the taxable year are directly related to the conduct of the taxpayer’s trade or business located in an enterprise zone.

(ii) Performs at least 50 percent of his or her services for the taxpayer during the taxable year in an enterprise zone.

(iii) Is hired by the taxpayer after the date of original designation of the area in which services were performed as an enterprise zone.

(iv) Is any of the following:

(I) Immediately preceding the qualified employee’s commencement of employment with the taxpayer, was a person eligible for services under the federal Job Training Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is receiving, or is eligible to receive, subsidized employment,

1 training, or services funded by the federal Job Training
2 Partnership Act, or its successor.

3 (II) Immediately preceding the qualified employee's
4 commencement of employment with the taxpayer, was a person
5 eligible to be a voluntary or mandatory registrant under the
6 Greater Avenues for Independence Act of 1985 (GAIN) provided
7 for pursuant to Article 3.2 (commencing with Section 11320) of
8 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
9 Code, or its successor.

10 (III) Immediately preceding the qualified employee's
11 commencement of employment with the taxpayer, was an
12 economically disadvantaged individual 14 years of age or older.

13 (IV) Immediately preceding the qualified employee's
14 commencement of employment with the taxpayer, was a
15 dislocated worker who meets any of the following:

16 (aa) Has been terminated or laid off or who has received a
17 notice of termination or layoff from employment, is eligible for
18 or has exhausted entitlement to unemployment insurance
19 benefits, and is unlikely to return to his or her previous industry
20 or occupation.

21 (bb) Has been terminated or has received a notice of
22 termination of employment as a result of any permanent closure
23 or any substantial layoff at a plant, facility, or enterprise,
24 including an individual who has not received written notification
25 but whose employer has made a public announcement of the
26 closure or layoff.

27 (cc) Is long-term unemployed and has limited opportunities for
28 employment or reemployment in the same or a similar
29 occupation in the area in which the individual resides, including
30 an individual 55 years of age or older who may have substantial
31 barriers to employment by reason of age.

32 (dd) Was self-employed (including farmers and ranchers) and
33 is unemployed as a result of general economic conditions in the
34 community in which he or she resides or because of natural
35 disasters.

36 (ee) Was a civilian employee of the Department of Defense
37 employed at a military installation being closed or realigned
38 under the Defense Base Closure and Realignment Act of 1990.

1 (ff) Was an active member of the armed forces or National
2 Guard as of September 30, 1990, and was either involuntarily
3 separated or separated pursuant to a special benefits program.

4 (gg) Is a seasonal or migrant worker who experiences chronic
5 seasonal unemployment and underemployment in the agriculture
6 industry, aggravated by continual advancements in technology
7 and mechanization.

8 (hh) Has been terminated or laid off, or has received a notice
9 of termination or layoff, as a consequence of compliance with the
10 Clean Air Act.

11 (V) Immediately preceding the qualified employee's
12 commencement of employment with the taxpayer, was a disabled
13 individual who is eligible for or enrolled in, or has completed a
14 state rehabilitation plan or is a service-connected disabled
15 veteran, veteran of the Vietnam era, or veteran who is recently
16 separated from military service.

17 (VI) Immediately preceding the qualified employee's
18 commencement of employment with the taxpayer, was an
19 ex-offender. An individual shall be treated as convicted if he or
20 she was placed on probation by a state court without a finding of
21 guilt.

22 (VII) Immediately preceding the qualified employee's
23 commencement of employment with the taxpayer, was a person
24 eligible for or a recipient of any of the following:

25 (aa) Federal Supplemental Security Income benefits.

26 (bb) Aid to Families with Dependent Children.

27 (cc) Food stamps.

28 (dd) State and local general assistance.

29 (VIII) Immediately preceding the qualified employee's
30 commencement of employment with the taxpayer, was a member
31 of a federally recognized Indian tribe, band, or other group of
32 Native American descent.

33 (IX) Immediately preceding the qualified employee's
34 commencement of employment with the taxpayer, was a resident
35 of a targeted employment area, as defined in Section 7072 of the
36 Government Code.

37 (X) An employee who qualified the taxpayer for the enterprise
38 zone hiring credit under former Section 17053.8 or the program
39 area hiring credit under former Section 17053.11.

(XI) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) "Taxpayer" means a person or entity engaged in a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of the Government Code.

(6) "Seasonal employment" means employment by a taxpayer that has regular and predictable substantial reductions in trade or business operations.

(c) The taxpayer shall do both of the following:

(1) Obtain from the Employment Development Department, as permitted by federal law, the local county or city Job Training Partnership Act administrative entity, the local county GAIN office or social services agency, or the local government administering the enterprise zone, a certification which provides that a qualified employee meets the eligibility requirements specified in clause (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The Employment Development Department may provide preliminary screening and referral to a certifying agency. The Employment Development Department shall develop a form for this purpose. The Department of Housing and Community Development shall develop regulations governing the issuance of certificates by local governments pursuant to subdivision (a) of Section 7086 of the Government Code.

(2) Retain a copy of the certification and provide it upon request to the Franchise Tax Board.

(d) (1) For purposes of this section:

(A) All employees of trades or businesses, which are not incorporated, that are under common control shall be treated as employed by a single taxpayer.

(B) The credit, if any, allowable by this section with respect to each trade or business shall be determined by reference to its

1 proportionate share of the expense of the qualified wages giving
2 rise to the credit, and shall be allocated in that manner.

3 (C) Principles that apply in the case of controlled groups of
4 corporations, as specified in subdivision (d) of Section 23622.7,
5 shall apply with respect to determining employment.

6 (2) If an employer acquires the major portion of a trade or
7 business of another employer (hereinafter in this paragraph
8 referred to as the “predecessor”) or the major portion of a
9 separate unit of a trade or business of a predecessor, then, for
10 purposes of applying this section (other than subdivision (e)) for
11 any calendar year ending after that acquisition, the employment
12 relationship between a qualified employee and an employer shall
13 not be treated as terminated if the employee continues to be
14 employed in that trade or business.

15 (e) (1) (A) If the employment, other than seasonal
16 employment, of any qualified employee, with respect to whom
17 qualified wages are taken into account under subdivision (a) is
18 terminated by the taxpayer at any time during the first 270 days
19 of that employment (whether or not consecutive) or before the
20 close of the 270th calendar day after the day in which that
21 employee completes 90 days of employment with the taxpayer,
22 the tax imposed by this part for the taxable year in which that
23 employment is terminated shall be increased by an amount equal
24 to the credit allowed under subdivision (a) for that taxable year
25 and all prior taxable years attributable to qualified wages paid or
26 incurred with respect to that employee.

27 (B) If the seasonal employment of any qualified employee,
28 with respect to whom qualified wages are taken into account
29 under subdivision (a) is not continued by the taxpayer for a
30 period of 270 days of employment during the 60-month period
31 beginning with the day the qualified employee commences
32 seasonal employment with the taxpayer, the tax imposed by this
33 part, for the taxable year that includes the 60th month following
34 the month in which the qualified employee commences seasonal
35 employment with the taxpayer, shall be increased by an amount
36 equal to the credit allowed under subdivision (a) for that taxable
37 year and all prior taxable years attributable to qualified wages
38 paid or incurred with respect to that qualified employee.

39 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
40 any of the following:

1 (i) A termination of employment of a qualified employee who
2 voluntarily leaves the employment of the taxpayer.

3 (ii) A termination of employment of a qualified employee
4 who, before the close of the period referred to in paragraph (1),
5 becomes disabled and unable to perform the services of that
6 employment, unless that disability is removed before the close of
7 that period and the taxpayer fails to offer reemployment to that
8 employee.

9 (iii) A termination of employment of a qualified employee, if
10 it is determined that the termination was due to the misconduct
11 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
12 of the California Code of Regulations) of that employee.

13 (iv) A termination of employment of a qualified employee due
14 to a substantial reduction in the trade or business operations of
15 the taxpayer.

16 (v) A termination of employment of a qualified employee, if
17 that employee is replaced by other qualified employees so as to
18 create a net increase in both the number of employees and the
19 hours of employment.

20 (B) Subparagraph (B) of paragraph (1) shall not apply to any
21 of the following:

22 (i) A failure to continue the seasonal employment of a
23 qualified employee who voluntarily fails to return to the seasonal
24 employment of the taxpayer.

25 (ii) A failure to continue the seasonal employment of a
26 qualified employee who, before the close of the period referred to
27 in subparagraph (B) of paragraph (1), becomes disabled and
28 unable to perform the services of that seasonal employment,
29 unless that disability is removed before the close of that period
30 and the taxpayer fails to offer seasonal employment to that
31 qualified employee.

32 (iii) A failure to continue the seasonal employment of a
33 qualified employee, if it is determined that the failure to continue
34 the seasonal employment was due to the misconduct (as defined
35 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
36 California Code of Regulations) of that qualified employee.

37 (iv) A failure to continue seasonal employment of a qualified
38 employee due to a substantial reduction in the regular seasonal
39 trade or business operations of the taxpayer.

1 (v) A failure to continue the seasonal employment of a
2 qualified employee, if that qualified employee is replaced by
3 other qualified employees so as to create a net increase in both
4 the number of seasonal employees and the hours of seasonal
5 employment.

6 (C) For purposes of paragraph (1), the employment
7 relationship between the taxpayer and a qualified employee shall
8 not be treated as terminated by reason of a mere change in the
9 form of conducting the trade or business of the taxpayer, if the
10 qualified employee continues to be employed in that trade or
11 business and the taxpayer retains a substantial interest in that
12 trade or business.

13 (3) Any increase in tax under paragraph (1) shall not be treated
14 as tax imposed by this part for purposes of determining the
15 amount of any credit allowable under this part.

16 (f) In the case of an estate or trust, both of the following apply:

17 (1) The qualified wages for any taxable year shall be
18 apportioned between the estate or trust and the beneficiaries on
19 the basis of the income of the estate or trust allocable to each.

20 (2) Any beneficiary to whom any qualified wages have been
21 apportioned under paragraph (1) shall be treated, for purposes of
22 this part, as the employer with respect to those wages.

23 (g) For purposes of this section, “enterprise zone” means an
24 area designated as an enterprise zone pursuant to Chapter 12.8
25 (commencing with Section 7070) of Division 7 of Title 1 of the
26 Government Code.

27 (h) The credit allowable under this section shall be reduced by
28 the credit allowed under Sections 17053.10, 17053.17 and
29 17053.46 claimed for the same employee. The credit shall also be
30 reduced by the federal credit allowed under Section 51 of the
31 Internal Revenue Code.

32 In addition, any deduction otherwise allowed under this part
33 for the wages or salaries paid or incurred by the taxpayer upon
34 which the credit is based shall be reduced by the amount of the
35 credit, prior to any reduction required by subdivision (i) or (j).

36 (i) In the case where the credit otherwise allowed under this
37 section exceeds the “net tax” for the taxable year, that portion of
38 the credit that exceeds the “net tax” may be carried over and
39 added to the credit, if any, in succeeding taxable years, until the

1 credit is exhausted. The credit shall be applied first to the earliest
2 taxable years possible.

3 (j) (1) The amount of the credit otherwise allowed under this
4 section and Section 17053.70, including any credit carryover
5 from prior years, that may reduce the “net tax” for the taxable
6 year shall not exceed the amount of tax which would be imposed
7 on the taxpayer’s business income attributable to the enterprise
8 zone determined as if that attributable income represented all of
9 the income of the taxpayer subject to tax under this part.

10 (2) Attributable income shall be that portion of the taxpayer’s
11 California source business income that is apportioned to the
12 enterprise zone. For that purpose, the taxpayer’s business income
13 attributable to sources in this state first shall be determined in
14 accordance with Chapter 17 (commencing with Section 25101)
15 of Part 11. That business income shall be further apportioned to
16 the enterprise zone in accordance with Article 2 (commencing
17 with Section 25120) of Chapter 17 of Part 11, modified for
18 purposes of this section in accordance with paragraph (3).

19 (3) Business income shall be apportioned to the enterprise
20 zone by multiplying the total California business income of the
21 taxpayer by a fraction, the numerator of which is the property
22 factor plus the payroll factor, and the denominator of which is
23 two. For purposes of this paragraph:

24 (A) The property factor is a fraction, the numerator of which is
25 the average value of the taxpayer’s real and tangible personal
26 property owned or rented and used in the enterprise zone during
27 the taxable year, and the denominator of which is the average
28 value of all the taxpayer’s real and tangible personal property
29 owned or rented and used in this state during the taxable year.

30 (B) The payroll factor is a fraction, the numerator of which is
31 the total amount paid by the taxpayer in the enterprise zone
32 during the taxable year for compensation, and the denominator of
33 which is the total compensation paid by the taxpayer in this state
34 during the taxable year.

35 (4) The portion of any credit remaining, if any, after
36 application of this subdivision, shall be carried over to
37 succeeding taxable years, as if it were an amount exceeding the
38 “net tax” for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years beginning on or after January 1, 1997.

(l) (1) *The credit authorized by this section shall not be applicable on or after January 1, 2007.*

(2) *On or after January 1, 2007, taxpayers that would otherwise be eligible to claim a credit authorized by this section, may claim a credit for these expenses under Section 17053.76.*

(3) *Notwithstanding this subdivision, the provisions of subdivision (d) of Section 17039 shall apply with respect to any remaining carryover of the credit previously authorized by this section.*

SEC. 20. *Section 17053.76 is added to the Revenue and Taxation Code, to read:*

17053.76. (a) *For each taxable year beginning on or after January 1, 2007, there shall be allowed a credit against the “net tax” (as defined in Section 17039) to a taxpayer who employs a qualified employee in a geographically targeted economic development area during the taxable year. The credit shall be equal to the sum of each of the following:*

(1) *Fifty percent of qualified wages in the first year of employment.*

(2) *Forty percent of qualified wages in the second year of employment.*

(3) *Thirty percent of qualified wages in the third year of employment.*

(4) *Twenty percent of qualified wages in the fourth year of employment.*

(5) *Ten percent of qualified wages in the fifth year of employment.*

(b) *For purposes of this section:*

(1) *“Geographically targeted economic development area” means any of the following:*

(A) *An enterprise zone designated as an enterprise zone pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.*

(B) *A local agency military base recovery area designated as a local agency military base recovery area pursuant to Chapter 12.97 (commencing with Section 7105).*

1 (C) A targeted tax area designated as a targeted tax area
2 pursuant to Chapter 12.93 (commencing with Section 7097).

3 (D) A manufacturing enhancement area designated as a
4 manufacturing enhancement area pursuant to Chapter 12.8
5 (commencing with Section 7073.8).

6 (2) “Geographically targeted economic development area
7 expiration date” means the date the geographically targeted
8 economic development area designation expires, is no longer
9 binding, or becomes inoperative.

10 (3) “Minimum wage” means the wage established by the
11 Industrial Welfare Commission as provided for in Chapter 1
12 (commencing with Section 1171) of Part 4 of Division 2 of the
13 Labor Code.

14 (4) (A) “Qualified employee” means an individual who meets
15 all of the following requirements:

16 (i) At least 90 percent of whose services for the taxpayer
17 during the taxable year are directly related to the conduct of the
18 taxpayer’s trade or business located in a geographically targeted
19 economic development area.

20 (ii) Performs at least 50 percent of his or her services for the
21 taxpayer during the taxable year in a geographically targeted
22 economic development area.

23 (iii) Is hired by the taxpayer after the date of original
24 designation of the area in which services were performed as a
25 geographically targeted economic development area.

26 (iv) Is any of the following, as documented by the
27 geographically targeted economic development area
28 coordinator:

29 (I) Immediately preceding the qualified employee’s
30 commencement of employment with the taxpayer, was a person
31 enrolled and documented in the California Job Training
32 Automation System by an authorized WIA representative under
33 the federal Workforce Investment Act (29 U.S.C. Sec. 720 et
34 seq.), or its successor.

35 (II) Immediately preceding the qualified employee’s
36 commencement of employment with the taxpayer, was a person
37 receiving benefits under the California Work Opportunity and
38 Responsibility to Kids program pursuant to Article 3.2
39 (commencing with Section 11200) of Chapter 2 of Part 3 of
40 Division 9 of the Welfare and Institutions Code, or its successor.

1 (III) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was an
3 economically disadvantaged individual 14 years of age or older.
4 For purposes of this section, "economically disadvantaged
5 individual" means an individual who meets the definition of that
6 term under the Workforce Investment Act, or its successor.

7 (IV) Immediately preceding the qualified employee's
8 commencement of employment with the taxpayer, was a
9 dislocated worker. For purposes of this section, a "dislocated
10 worker" means an individual who meets the definition of that
11 term under the Workforce Investment Act, or its successor.

12 (V) Immediately preceding the qualified employee's
13 commencement of employment with the taxpayer, was a disabled
14 individual who is eligible for or enrolled in, or has completed a
15 state rehabilitation plan.

16 (VI) Is a service-connected disabled veteran, veteran of the
17 Vietnam era, an individual who served in the active military,
18 naval, or air service, and who was discharged or released from
19 that service under conditions other than dishonorable, or any
20 veteran who was discharged or released in the last 48 months
21 from active military, naval, or an air service.

22 (VII) Has a prior felony conviction. An individual shall be
23 treated as convicted if he or she was placed on probation by a
24 state court without a finding of guilt.

25 (VIII) Immediately preceding the qualified employee's
26 commencement of employment with the taxpayer, was a person
27 receiving any of the following:

28 (aa) Federal Supplemental Security Income benefits.

29 (bb) Temporary Assistance for Needy Families.

30 (cc) Food stamps.

31 (dd) State and local general assistance.

32 (IX) Immediately preceding the qualified employee's
33 commencement of employment with the taxpayer, was a member
34 of a federally recognized Indian tribe, band, or other group of
35 Native American descent.

36 (X) Immediately preceding the qualified employee's
37 commencement of employment with the taxpayer, was a resident
38 of a targeted employment area, as defined in Section 7072 of the
39 Government Code.

1 (XI) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a member
3 of a targeted group, as defined in Section 51(d) of the Internal
4 Revenue Code, or its successor.

5 (XII) Immediately preceding the qualified employee's
6 commencement of employment with the taxpayer, was a
7 "qualified former foster care recipient," which means an
8 individual who is certified by the local designated agency to have
9 met both the following:

10 (aa) Having attained age 17 but not age 25 on the hiring date.

11 (bb) Having, before attaining the age of 18, been either a
12 recipient of foster care maintenance payments under a state plan
13 approved under Part E of Title IV of the Social Security Act (42
14 U.S.C. Sec. 301), or in foster care under the responsibility of a
15 state.

16 (B) Priority for employment shall be provided to an individual
17 who is enrolled in a qualified program under the federal
18 Workforce Investment Act, or its successor, or the California
19 Work Opportunity and Responsibility to Kids program, or its
20 successor, or who is eligible as a member of a targeted group
21 under the Work Opportunity Tax Credit (Section 51 of the
22 Internal Revenue Code), or its successor.

23 (5) "Qualified wages" means:

24 (A) (i) Except as provided in clause (ii), that portion of wages
25 paid or incurred by the taxpayer during the taxable year to
26 qualified employees that does not exceed 150 percent of the
27 minimum wage.

28 (ii) For up to 1,350 qualified employees who are employed by
29 the taxpayer in the Long Beach Enterprise Zone in aircraft
30 manufacturing activities described in Codes 3721 to 3728,
31 inclusive, and Code 3812 of the Standard Industrial
32 Classification (SIC) Manual published by the United States
33 Office of Management and Budget, 1987 edition, "qualified
34 wages" means that portion of hourly wages that does not exceed
35 202 percent of the minimum wage.

36 (B) Wages received during the 60-month period beginning
37 with the first day the employee commences employment with the
38 taxpayer. Reemployment in connection with any increase,
39 including a regularly occurring seasonal increase, in the trade

1 or business operations of the taxpayer does not constitute
2 commencement of employment for purposes of this section.

3 (C) Qualified wages do not include any wages paid or
4 incurred by the taxpayer on or after the expiration date of the
5 geographically targeted economic development area. However,
6 wages paid or incurred with respect to qualified employees who
7 are employed by the taxpayer within the geographically targeted
8 economic development area within the 60-month period prior to
9 the zone expiration date shall continue to qualify for the credit
10 under this section after the expiration date of the geographically
11 targeted economic development area, in accordance with all
12 provisions of this section applied as if the geographically
13 targeted economic development area designation were still in
14 existence and binding.

15 (6) “Seasonal employment” means employment by a taxpayer
16 that has regular and predictable substantial reductions in trade
17 or business operations.

18 (7) “Taxpayer” means a person or entity engaged in a trade
19 or business within a geographically targeted economic
20 development area.

21 (c) The taxpayer shall do both of the following:

22 (1) Obtain from the geographically targeted economic
23 development area coordinator designated by the local
24 jurisdiction in which the employee is employed or, if serving that
25 geographically targeted economic development area, the
26 Employment Development Department, as permitted by federal
27 law, the local county or city Workforce Investment Act (or its
28 successor) administrative entity, or the local county CalWORKs
29 office or social services agency, or its successors, a certification
30 which provides that a qualified employee meets the eligibility
31 requirements specified in clause (iv) of subparagraph (A) of
32 paragraph (4) of subdivision (b). The Employment Development
33 Department may provide preliminary screening and referral to a
34 certifying agency. The Employment Development Department
35 shall develop a form for this purpose. The Department of
36 Housing and Community Development shall develop regulations
37 governing the issuance of certificates by local governments
38 pursuant to subdivision (a) of Section 7086 of the Government
39 Code. Applications for this certification shall be submitted to the
40 certifying agency within 24 months of the commencement date of

1 employment with the taxpayer. The certifying agency shall not
2 issue a certification when the employer or the employer's agent
3 is the second signatory on the applicant's statement for
4 establishing eligibility.

5 (2) Retain a copy of the certification and provide it upon
6 request to the Franchise Tax Board.

7 (d) (1) For purposes of this section:

8 (A) All employees of trades or businesses, which are not
9 incorporated, that are under common control shall be treated as
10 employed by a single taxpayer.

11 (B) The credit, if any, allowable by this section with respect to
12 each trade or business shall be determined by reference to its
13 proportionate share of the expense of the qualified wages giving
14 rise to the credit, and shall be allocated in that manner.

15 (C) Principles that apply in the case of controlled groups of
16 corporations, as specified in subdivision (d) of Section 23622.7,
17 shall apply with respect to determining employment.

18 (2) If an employer acquires the major portion of a trade or
19 business of another employer (hereinafter in this paragraph
20 referred to as the "predecessor") or the major portion of a
21 separate unit of a trade or business of a predecessor, then, for
22 purposes of applying this section (other than subdivision (e)) for
23 any calendar year ending after that acquisition, the employment
24 relationship between a qualified employee and an employer shall
25 not be treated as terminated if the employee continues to be
26 employed in that trade or business.

27 (e) (1) (A) If the employment, other than seasonal
28 employment, of any qualified employee, with respect to whom
29 qualified wages are taken into account under subdivision (a) is
30 terminated by the taxpayer at any time during the first 270 days
31 of that employment (whether or not consecutive) or before the
32 close of the 270th calendar day after the day in which that
33 employee completes 90 days of employment with the taxpayer,
34 the tax imposed by this part for the taxable year in which that
35 employment is terminated shall be increased by an amount equal
36 to the credit allowed under subdivision (a) for that taxable year
37 and all prior taxable years attributable to qualified wages paid
38 or incurred with respect to that employee.

39 (B) If the seasonal employment of any qualified employee, with
40 respect to whom qualified wages are taken into account under

1 *subdivision (a) is not continued by the taxpayer for a period of*
2 *270 days of employment during the 60-month period beginning*
3 *with the day the qualified employee commences seasonal*
4 *employment with the taxpayer, the tax imposed by this part, for*
5 *the taxable year that includes the 60th month following the*
6 *month in which the qualified employee commences seasonal*
7 *employment with the taxpayer, shall be increased by an amount*
8 *equal to the credit allowed under subdivision (a) for that taxable*
9 *year and all prior taxable years attributable to qualified wages*
10 *paid or incurred with respect to that qualified employee.*

11 *(2) (A) Subparagraph (A) of paragraph (1) shall not apply to*
12 *any of the following:*

13 *(i) A termination of employment of a qualified employee who*
14 *voluntarily leaves the employment of the taxpayer.*

15 *(ii) A termination of employment of a qualified employee who,*
16 *before the close of the period referred to in paragraph (1),*
17 *becomes disabled and unable to perform the services of that*
18 *employment, unless that disability is removed before the close of*
19 *that period and the taxpayer fails to offer reemployment to that*
20 *employee.*

21 *(iii) A termination of employment of a qualified employee, if it*
22 *is determined that the termination was due to the misconduct (as*
23 *defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of*
24 *the California Code of Regulations) of that employee.*

25 *(iv) A termination of employment of a qualified employee due*
26 *to a substantial reduction in the trade or business operations of*
27 *the taxpayer.*

28 *(v) A termination of employment of a qualified employee, if*
29 *that employee is replaced by other qualified employees so as to*
30 *create a net increase in both the number of employees and the*
31 *hours of employment.*

32 *(B) Subparagraph (B) of paragraph (1) shall not apply to any*
33 *of the following:*

34 *(i) A failure to continue the seasonal employment of a*
35 *qualified employee who voluntarily fails to return to the seasonal*
36 *employment of the taxpayer.*

37 *(ii) A failure to continue the seasonal employment of a*
38 *qualified employee who, before the close of the period referred to*
39 *in subparagraph (B) of paragraph (1), becomes disabled and*
40 *unable to perform the services of that seasonal employment,*

1 *unless that disability is removed before the close of that period*
2 *and the taxpayer fails to offer seasonal employment to that*
3 *qualified employee.*

4 *(iii) A failure to continue the seasonal employment of a*
5 *qualified employee, if it is determined that the failure to continue*
6 *the seasonal employment was due to the misconduct (as defined*
7 *in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the*
8 *California Code of Regulations) of that qualified employee.*

9 *(iv) A failure to continue seasonal employment of a qualified*
10 *employee due to a substantial reduction in the regular seasonal*
11 *trade or business operations of the taxpayer.*

12 *(v) A failure to continue the seasonal employment of a*
13 *qualified employee, if that qualified employee is replaced by*
14 *other qualified employees so as to create a net increase in both*
15 *the number of seasonal employees and the hours of seasonal*
16 *employment.*

17 *(C) For purposes of paragraph (1), the employment*
18 *relationship between the taxpayer and a qualified employee shall*
19 *not be treated as terminated by reason of a mere change in the*
20 *form of conducting the trade or business of the taxpayer, if the*
21 *qualified employee continues to be employed in that trade or*
22 *business and the taxpayer retains a substantial interest in that*
23 *trade or business.*

24 *(3) Any increase in tax under paragraph (1) shall not be*
25 *treated as tax imposed by this part for purposes of determining*
26 *the amount of any credit allowable under this part.*

27 *(f) In the case of an estate or trust, both of the following apply:*

28 *(1) The qualified wages for any taxable year shall be*
29 *apportioned between the estate or trust and the beneficiaries on*
30 *the basis of the income of the estate or trust allocable to each.*

31 *(2) Any beneficiary to whom any qualified wages have been*
32 *apportioned under paragraph (1) shall be treated, for purposes*
33 *of this part, as the employer with respect to those wages.*

34 *(g) (1) The credit allowable under this section shall be*
35 *reduced by the credit allowed under Sections 17053.10 and*
36 *17053.17 claimed for the same employee. The credit shall also be*
37 *reduced by the federal credit allowed under Section 51 of the*
38 *Internal Revenue Code.*

39 *(2) Any deduction otherwise allowed under this part for the*
40 *wages or salaries paid or incurred by the taxpayer upon which*

1 *the credit is based shall be reduced by the amount of the credit,*
 2 *prior to any reduction required by subdivision (h) or (i).*

3 *(h) In the case where the credit otherwise allowed under this*
 4 *section exceeds the “net tax” for the taxable year, that portion of*
 5 *the credit that exceeds the “net tax” may be carried over and*
 6 *added to the credit, if any, in succeeding taxable years, until the*
 7 *credit is exhausted. The credit shall be applied first to the*
 8 *earliest taxable years possible.*

9 *(i) (1) The amount of the credit otherwise allowed under this*
 10 *section and Section 17053.70, including any credit carryover*
 11 *from prior years, that may reduce the “net tax” for the taxable*
 12 *year shall not exceed the amount of tax which would be imposed*
 13 *on the taxpayer’s business income attributable to the*
 14 *geographically targeted economic development area determined*
 15 *as if that attributable income represented all of the income of the*
 16 *taxpayer subject to tax under this part.*

17 *(2) Attributable income shall be that portion of the taxpayer’s*
 18 *California source business income that is apportioned to the*
 19 *geographically targeted economic development area. For that*
 20 *purpose, the taxpayer’s business income attributable to sources*
 21 *in this state first shall be determined in accordance with Chapter*
 22 *17 (commencing with Section 25101) of Part 11. That business*
 23 *income shall be further apportioned to the geographically*
 24 *targeted economic development area in accordance with Article*
 25 *2 (commencing with Section 25120) of Chapter 17 of Part 11,*
 26 *modified for purposes of this section in accordance with*
 27 *paragraph (3).*

28 *(3) Business income shall be apportioned to the*
 29 *geographically targeted economic development area by*
 30 *multiplying the total California business income of the taxpayer*
 31 *by a fraction, the numerator of which is the property factor plus*
 32 *the payroll factor, and the denominator of which is two. For*
 33 *purposes of this paragraph:*

34 *(A) The property factor is a fraction, the numerator of which is*
 35 *the average value of the taxpayer’s real and tangible personal*
 36 *property owned or rented and used in the geographically*
 37 *targeted economic development area during the taxable year,*
 38 *and the denominator of which is the average value of all the*
 39 *taxpayer’s real and tangible personal property owned or rented*
 40 *and used in this state during the taxable year.*

1 (B) The payroll factor is a fraction, the numerator of which is
2 the total amount paid by the taxpayer in the geographically
3 targeted economic development area during the taxable year for
4 compensation, and the denominator of which is the total
5 compensation paid by the taxpayer in this state during the
6 taxable year.

7 (4) The portion of any credit remaining, if any, after
8 application of this subdivision, shall be carried over to
9 succeeding taxable years, as if it were an amount exceeding the
10 “net tax” for the taxable year, as provided in subdivision (h).

11 SEC. 21. Section 17235 of the Revenue and Taxation Code is
12 amended to read:

13 17235. (a) There shall be allowed as a deduction the amount
14 of net interest received by the taxpayer in payment on
15 indebtedness of a person or entity engaged in the conduct of a
16 trade or business located in an enterprise zone.

17 (b) No deduction shall be allowed under this section unless at
18 the time the indebtedness is incurred each of the following
19 requirements are met:

20 (1) The trade or business *qualifying the lender for the*
21 *deduction* is physically located ~~solely~~ within an enterprise zone.
22 *Debtors physically located within and outside the enterprise zone*
23 *shall not qualify the lender for the deduction for loans made*
24 *within the zone.*

25 (2) The indebtedness is incurred solely in connection with
26 activity within the enterprise zone. *Lenders shall verify and*
27 *document that the proceeds from loans made to taxpayers in the*
28 *enterprise zone are spent within the enterprise zone.*

29 (3) The taxpayer has no equity or other ownership interest in
30 the debtor.

31 (c) “Enterprise zone” means an area designated as an
32 enterprise zone pursuant to Chapter 12.8 (commencing with
33 Section 7070) of Division 7 of Title 1 of the Government Code.

34 SEC. 22. Section 17267.2 of the Revenue and Taxation Code
35 is amended to read:

36 17267.2. (a) A taxpayer may elect to treat ~~40~~ 60 percent of
37 the cost of any Section 17267.2 property as an expense which is
38 not chargeable to a capital account. Any cost so treated shall be
39 allowed as a deduction for the taxable year in which the taxpayer
40 places the Section 17267.2 property in service.

(b) In the case of a husband and wife filing separate returns for a taxable year, the applicable amount under subdivision (a) shall be equal to 50 percent of the percentage specified in subdivision (a).

(c) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 17267.2 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the taxpayer's original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(d) (1) For purposes of this section, "Section 17267.2 property" means any recovery property that is:

(A) Section 1245 property (as defined in Section 1245(a) (3) of the Internal Revenue Code).

(B) Purchased and placed in service by the taxpayer for exclusive use in a trade or business conducted within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(C) Purchased and placed in service before the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.

(2) For purposes of paragraph (1), "purchase" means any acquisition of property, but only if both of the following apply:

(A) The property is not acquired from a person whose relationship to the person acquiring it would result in the disallowance of losses under Section 267 or Section 707 (b) of the Internal Revenue Code. However, in applying Section 267(b) and 267(c) for purposes of this section, Section 267(c) (4) shall be treated as providing that the family of an individual shall include only the individual's spouse, ancestors, and lineal descendants.

(B) The basis of the property in the hands of the person acquiring it is not determined in whole or in part by reference to

1 the adjusted basis of that property in the hands of the person from
2 whom it is acquired.

3 (3) For purposes of this section, the cost of property does not
4 include that portion of the basis of the property that is determined
5 by reference to the basis of other property held at any time by the
6 person acquiring the property.

7 (4) This section shall not apply to estates and trusts.

8 (5) This section shall not apply to any property for which the
9 taxpayer may not make an election for the taxable year under
10 Section 179 of the Internal Revenue Code because of the
11 application of the provisions of Section 179(d) of the Internal
12 Revenue Code.

13 (6) In the case of a partnership, the percentage limitation
14 specified in subdivision (a) shall apply at the partnership level
15 and at the partner level.

16 (e) For purposes of this section, “taxpayer” means a person or
17 entity who conducts a trade or business within an enterprise zone
18 designated pursuant to Chapter 12.8 (commencing with Section
19 7070) of Division 7 of Title 1 of the Government Code.

20 (f) Any taxpayer who elects to be subject to this section shall
21 not be entitled to claim for the same property, the deduction
22 under Section 179 of the Internal Revenue Code, relating to an
23 election to expense certain depreciable business assets. However,
24 the taxpayer may claim depreciation by any method permitted by
25 Section 168 of the Internal Revenue Code, commencing with the
26 taxable year following the taxable year in which the Section
27 17267.2 property is placed in service.

28 (g) The aggregate cost of all Section 17267.2 property that
29 may be taken into account under subdivision (a) for any taxable
30 year shall not exceed ~~the following applicable amount for the~~
31 ~~taxable year of the designation of the relevant enterprise zone~~
32 ~~and taxable years thereafter: one hundred thousand dollars~~
33 ~~(\$100,000).~~

34		
35	-	The applicable
36	-	amount is:
37	Taxable year of designation.....	\$100,000
38	1st taxable year thereafter.....	100,000
39	2nd taxable year thereafter.....	75,000
40	3rd taxable year thereafter.....	75,000

1	-	The applicable
2	-	amount is:
3	Each taxable year thereafter.....	-50,000

4

5 (h) Any amounts deducted under subdivision (a) with respect

6 to property subject to this section that ceases to be used in the

7 taxpayer's trade or business within an enterprise zone at any time

8 before the close of the second taxable year after the property is

9 placed in service shall be included in income in the taxable year

10 in which the property ceases to be so used.

11 *SEC. 23. Section 17267.6 of the Revenue and Taxation Code*

12 *is amended to read:*

13 17267.6. (a) For each taxable year beginning on or after

14 January 1, 1998, a qualified taxpayer may elect to treat ~~40-60~~

15 percent of the cost of any Section 17267.6 property as an expense

16 that is not chargeable to a capital account. Any cost so treated

17 shall be allowed as a deduction for the taxable year in which the

18 qualified taxpayer places the Section 17267.6 property in service.

19 (b) In the case of a husband and wife filing separate returns for

20 a taxable year, the applicable amount under subdivision (a) shall

21 be equal to 50 percent of the percentage specified in subdivision

22 (a).

23 (c) (1) An election under this section for any taxable year

24 shall do both of the following:

25 (A) Specify the items of Section 17267.6 property to which

26 the election applies and the percentage of the cost of each of

27 those items that are to be taken into account under subdivision

28 (a).

29 (B) Be made on the qualified taxpayer's original return of the

30 tax imposed by this part for the taxable year.

31 (2) Any election made under this section, and any

32 specification contained in that election, may not be revoked

33 except with the consent of the Franchise Tax Board.

34 (d) (1) For purposes of this section, "Section 17267.6

35 property" means any recovery property that is:

36 (A) Section 1245 property (as defined in Section 1245(a)(3) of

37 the Internal Revenue Code).

38 (B) Purchased and placed in service by the qualified taxpayer

39 for exclusive use in a trade or business conducted within a

40 targeted tax area designated pursuant to Chapter 12.93

1 (commencing with Section 7097) of Division 7 of Title 1 of the
2 Government Code.

3 (C) Purchased and placed in service before the date the
4 targeted tax area designation expires, is revoked, is no longer
5 binding, or becomes inoperative.

6 (2) For purposes of paragraph (1), “purchase” means any
7 acquisition of property, but only if both of the following apply:

8 (A) The property is not acquired from a person whose
9 relationship to the person acquiring it would result in the
10 disallowance of losses under Section 267 or Section 707(b) of the
11 Internal Revenue Code. However, in applying Sections 267(b)
12 and 267(c) for purposes of this section, Section 267(c)(4) shall be
13 treated as providing that the family of an individual shall include
14 only the individual’s spouse, ancestors, and lineal descendants.

15 (B) The basis of the property in the hands of the person
16 acquiring it is not determined in whole or in part by reference to
17 the adjusted basis of that property in the hands of the person from
18 whom it is acquired.

19 (3) For purposes of this section, the cost of property does not
20 include that portion of the basis of the property that is determined
21 by reference to the basis of other property held at any time by the
22 person acquiring the property.

23 (4) This section shall not apply to estates and trusts.

24 (5) This section shall not apply to any property for which the
25 qualified taxpayer may not make an election for the taxable year
26 under Section 179 of the Internal Revenue Code because of the
27 application of the provisions of Section 179(d) of the Internal
28 Revenue Code.

29 (6) In the case of a partnership, the percentage limitation
30 specified in subdivision (a) shall apply at the partnership level
31 and at the partner level.

32 (e) (1) For purposes of this section, “qualified taxpayer”
33 means a person or entity that meets both of the following:

34 (A) Is engaged in a trade or business within a targeted tax area
35 designated pursuant to Chapter 12.93 (commencing with Section
36 7097) of Division 7 of Title 1 of the Government Code.

37 (B) Is engaged in those lines of business described in Codes
38 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
39 inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive,
40 of the Standard Industrial Classification (SIC) Manual published

by the United State Office of Management and Budget, 1987 edition.

(2) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any deduction under this section or Section 24356.6 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part of Part 11 (commencing with Section 23001). For purposes of this subparagraph, the term “pass-through entity” means any partnership or S corporation.

(f) Any qualified taxpayer who elects to be subject to this section shall not be entitled to claim for the same property, the deduction under Section 179 of the Internal Revenue Code, relating to an election to expense certain depreciable business assets. However, the qualified taxpayer may claim depreciation by any method permitted by Section 168 of the Internal Revenue Code, commencing with the taxable year following the taxable year in which the Section 17267.6 property is placed in service.

(g) The aggregate cost of all Section 17267.6 property that may be taken into account under subdivision (a) for any taxable year shall not exceed ~~the following applicable amount for the taxable year of the designation of the relevant targeted tax area and taxable years thereafter:~~ *one hundred thousand dollars (\$100,000).*

	The applicable amount is:
-	
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	-75,000
3rd taxable year thereafter.....	-75,000
Each taxable year thereafter.....	-50,000

(h) Any amounts deducted under subdivision (a) with respect to Section 17267.6 property that ceases to be used in the qualified taxpayer’s trade or business within a targeted tax area at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

1 *SEC. 24. Section 17268 of the Revenue and Taxation Code is*
2 *amended to read:*

3 17268. (a) For each taxable year beginning on or after
4 January 1, 1995, a taxpayer may elect to treat ~~40~~ 60 percent of
5 the cost of any Section 17268 property as an expense that is not
6 chargeable to the capital account. Any cost so treated shall be
7 allowed as a deduction for the taxable year in which the taxpayer
8 places the Section 17268 property in service.

9 (b) In the case of a husband or wife filing separate returns for
10 a taxable year in which a spouse is entitled to the deduction
11 under subdivision (a), the applicable amount shall be equal to 50
12 percent of the amount otherwise determined under subdivision
13 (a).

14 (c) (1) An election under this section for any taxable year
15 shall meet both of the following requirements:

16 (A) Specify the items of Section 17268 property to which the
17 election applies and the portion of the cost of each of those items
18 that is to be taken into account under subdivision (a).

19 (B) Be made on the taxpayer's return of the tax imposed by
20 this part for the taxable year.

21 (2) Any election made under this section, and any
22 specification contained in that election, may not be revoked
23 except with the consent of the Franchise Tax Board.

24 (d) (1) For purposes of this section, "Section 17268 property"
25 means any recovery property that is each of the following:

26 (A) Section 1245 property (as defined in Section 1245(a)(3) of
27 the Internal Revenue Code).

28 (B) Purchased by the taxpayer for exclusive use in a trade or
29 business conducted within a LAMBRA.

30 (C) Purchased before the date the LAMBRA designation
31 expires, is no longer binding, or becomes inoperative.

32 (2) For purposes of paragraph (1), "purchase" means any
33 acquisition of property, but only if both of the following apply:

34 (A) The property is not acquired from a person whose
35 relationship to the person acquiring it would result in the
36 disallowance of losses under Section 267 or 707(b) of the
37 Internal Revenue Code (but, in applying Section 267(b) and
38 Section 267(c) of the Internal Revenue Code for purposes of this
39 section, Section 267(c)(4) of the Internal Revenue Code shall be

1 treated as providing that the family of an individual shall include
2 only his or her spouse, ancestors, and lineal descendants).

3 (B) The basis of the property in the hands of the person
4 acquiring it is not determined by either of the following:

5 (i) In whole or in part by reference to the adjusted basis of the
6 property in the hands of the person from whom acquired.

7 (ii) Under Section 1014 of the Internal Revenue Code, relating
8 to basis of property acquired from a decedent.

9 (3) For purposes of this section, the cost of property does not
10 include that portion of the basis of the property that is determined
11 by reference to the basis of other property held at any time by the
12 person acquiring the property.

13 (4) This section shall not apply to estates and trusts.

14 (5) This section shall not apply to any property for which the
15 taxpayer may not make an election for the taxable year under
16 Section 179 of the Internal Revenue Code because of the
17 provisions of Section 179(d) of the Internal Revenue Code.

18 (6) In the case of a partnership, the dollar limitation in
19 subdivision (f) shall apply at the partnership level and at the
20 partner level.

21 (7) This section shall not apply to any property described in
22 Section 168(f) of the Internal Revenue Code, relating to property
23 to which Section 168 of the Internal Revenue Code does not
24 apply.

25 (e) For purposes of this section:

26 (1) “LAMBRA” means a local agency military base recovery
27 area designated in accordance with the provisions of Section
28 7114 of the Government Code.

29 (2) “Taxpayer” means a taxpayer that conducts a trade or
30 business within a LAMBRA and, for the first two taxable years,
31 has a net increase in jobs (defined as 2,000 paid hours per
32 employee per year) of one or more employees in the LAMBRA.

33 (A) The net increase in the number of jobs shall be determined
34 by subtracting the total number of full-time employees (defined
35 as 2,000 paid hours per employee per year) the taxpayer
36 employed in this state in the taxable year prior to commencing
37 business operations in the LAMBRA from the total number of
38 full-time employees the taxpayer employed in this state during
39 the second taxable year after commencing business operations in
40 the LAMBRA. For taxpayers who commence doing business in

1 this state with their LAMBRA business operation, the number of
 2 employees for the taxable year prior to commencing business
 3 operations in the LAMBRA shall be zero. If the taxpayer has a
 4 net increase in jobs in the state, the credit shall be allowed only if
 5 one or more full-time employees is employed within the
 6 LAMBRA.

7 (B) The total number of employees employed in the
 8 LAMBRA shall equal the sum of both of the following:

9 (i) The total number of hours worked in the LAMBRA for the
 10 taxpayer by employees (not to exceed 2,000 hours per employee)
 11 who are paid an hourly wage divided by 2,000.

12 (ii) The total number of months worked in the LAMBRA for
 13 the taxpayer by employees who are salaried employees divided
 14 by 12.

15 (C) In the case of a taxpayer who first commences doing
 16 business in the LAMBRA during the taxable year, for purposes
 17 of clauses (i) and (ii), respectively, of subparagraph (B) the
 18 divisors “2,000” and “12” shall be multiplied by a fraction, the
 19 numerator of which is the number of months of the taxable year
 20 that the taxpayer was doing business in the LAMBRA and the
 21 denominator of which is 12.

22 (f) The aggregate cost of all Section 17268 property that may
 23 be taken into account under subdivision (a) for any taxable year
 24 shall not exceed ~~the following applicable amounts for the taxable~~
 25 ~~year of the designation of the relevant LAMBRA and taxable~~
 26 ~~years thereafter: one hundred thousand dollars (\$100,000).~~

27		
28	–	The applicable
29		amount is:
30	Taxable year of designation.....	\$100,000
31	1st taxable year thereafter.....	–100,000
32	2nd taxable year thereafter.....	–75,000
33	3rd taxable year thereafter.....	–75,000
34	Each taxable year thereafter.....	–50,000

35
 36 (g) This section shall apply only to property that is used
 37 exclusively in a trade or business conducted within a LAMBRA.

38 (h) (1) Any amounts deducted under subdivision (a) with
 39 respect to property that ceases to be used in the trade or business
 40 within a LAMBRA at any time before the close of the second

1 taxable year after the property was placed in service shall be
2 included in income for that year.

3 (2) At the close of the second taxable year, if the taxpayer has
4 not increased the number of its employees as determined by
5 paragraph (2) of subdivision (e), then the amount of the
6 deduction previously claimed shall be added to the taxpayer's
7 taxable income for the taxpayer's second taxable year.

8 (i) Any taxpayer who elects to be subject to this section shall
9 not be entitled to claim for the same property the deduction under
10 Section 179 of the Internal Revenue Code, relating to an election
11 to expense certain depreciable business assets.

12 *SEC. 25. Section 17276.2 of the Revenue and Taxation Code*
13 *is amended to read:*

14 17276.2. (a) The term "qualified taxpayer" as used in Section
15 17276.1 includes a person or entity engaged in the conduct of a
16 trade or business within an enterprise zone designated pursuant to
17 Chapter 12.8 (commencing with Section 7070) of Division 7 of
18 Title 1 of the Government Code. For purposes of this
19 subdivision, all of the following shall apply:

20 (1) A net operating loss shall not be a net operating loss
21 carryback to any taxable year and a net operating loss for any
22 taxable year beginning on or after the date that the area in which
23 the taxpayer conducts a trade or business is designated as an
24 enterprise zone shall be a net operating loss carryover to each of
25 the ~~15~~ 17 taxable years following the taxable year of loss.

26 (2) For purposes of this subdivision:

27 (A) "Net operating loss" means the loss determined under
28 Section 172 of the Internal Revenue Code, as modified by
29 Section 17276.1, attributable to the taxpayer's business activities
30 within the enterprise zone (as defined in Chapter 12.8
31 (commencing with Section 7070) of Division 7 of Title 1 of the
32 Government Code) prior to the enterprise zone expiration date.
33 ~~That attributable loss shall be determined in accordance with~~
34 ~~Chapter 17 (commencing with Section 25101) of Part 11,~~
35 ~~modified for purposes of this subdivision, as follows:~~

36 ~~(i) Loss shall be apportioned to the enterprise zone by~~
37 ~~multiplying total loss from the business by a fraction, the~~
38 ~~numerator of which is the property factor plus the payroll factor,~~
39 ~~and the denominator of which is two.~~

40 ~~(ii) "The enterprise zone" shall be substituted for "this state."~~

~~(B) A net operating loss carryover shall be a deduction only with respect to the taxpayer's business income attributable to the enterprise zone as defined in Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.~~

~~(C) Attributable income is that portion of the taxpayer's California source business income that is apportioned to the enterprise zone. For that purpose, the taxpayer's business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101) of Part 11. That business income shall be further apportioned to the enterprise zone in accordance with Article 2 (commencing with Section 25120) of Chapter 17 of Part 11, modified for purposes of this subdivision as follows:~~

~~(i) Business income shall be apportioned to the enterprise zone by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this clause:~~

~~(I) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the enterprise zone during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.~~

~~(II) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the enterprise zone during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.~~

~~(ii) If a loss carryover is allowable pursuant to this section for any taxable year after the enterprise zone designation has expired, the enterprise zone shall be deemed to remain in existence for purposes of computing the limitation set forth in subparagraph (B) and allowing a net operating loss deduction.~~

~~(D)–~~

~~(B) “Enterprise zone expiration date” means the date the enterprise zone designation expires, is no longer binding, or becomes inoperative.~~

1 (3) The changes made to this subdivision by the act adding
2 this paragraph shall apply to taxable years beginning on or after
3 January 1, 1998.

4 (b) A taxpayer who qualifies as a “qualified taxpayer” under
5 one or more sections shall, for the taxable year of the net
6 operating loss and any taxable year to which that net operating
7 loss may be carried, designate on the original return filed for
8 each year the section which applies to that taxpayer with respect
9 to that net operating loss. If the taxpayer is eligible to qualify
10 under more than one section, the designation is to be made after
11 taking into account subdivision (c).

12 (c) If a taxpayer is eligible to qualify under this section and
13 either Section 17276.4, 17276.5, or 17276.6 as a “qualified
14 taxpayer,” with respect to a net operating loss in a taxable year,
15 the taxpayer shall designate which section is to apply to the
16 taxpayer.

17 (d) Notwithstanding Section 17276, the amount of the loss
18 determined under this section or Section 17276.4, 17276.5, or
19 17276.6 shall be the only net operating loss allowed to be carried
20 over from that taxable year and the designation under subdivision
21 (b) shall be included in the election under Section 17276.1.

22 *SEC. 26. Section 17276.5 of the Revenue and Taxation Code*
23 *is amended to read:*

24 17276.5. (a) For each taxable year beginning on or after
25 January 1, 1995, the term “qualified taxpayer” as used in Section
26 17276.1 includes a taxpayer engaged in the conduct of a trade or
27 business within a LAMBRA. For purposes of this subdivision, all
28 of the following shall apply:

29 (1) A net operating loss shall not be a net operating loss
30 carryback for any taxable year, and a net operating loss for any
31 taxable year beginning on or after the date the area in which the
32 taxpayer conducts a trade or business is designated a LAMBRA
33 shall be a net operating loss carryover to each following taxable
34 year that ends before the LAMBRA expiration date or to each of
35 the ~~15~~ 17 taxable years following the taxable year of loss, if
36 longer.

37 (2) “LAMBRA” means a local agency military base recovery
38 area designated in accordance with Section 7114 of the
39 Government Code.

1 (3) “Taxpayer” means a person or entity that conducts a trade
2 or business within a LAMBRA and, for the first two taxable
3 years, has a net increase in jobs (defined as 2,000 paid hours per
4 employee per year) of one or more employees in the LAMBRA
5 and this state. For purposes of this paragraph:

6 (A) The net increase in the number of jobs shall be determined
7 by subtracting the total number of full-time employees (defined
8 as 2,000 paid hours per employee per year) the taxpayer
9 employed in this state in the taxable year prior to commencing
10 business operations in the LAMBRA from the total number of
11 full-time employees the taxpayer employed in this state during
12 the second taxable year after commencing business operations in
13 the LAMBRA. For taxpayers who commence doing business in
14 this state with their LAMBRA business operation, the number of
15 employees for the taxable year prior to commencing business
16 operations in the LAMBRA shall be zero. The deduction shall be
17 allowed only if the taxpayer has a net increase in jobs in the state,
18 and if one or more full-time employees is employed within the
19 LAMBRA.

20 (B) The total number of employees employed in the
21 LAMBRA shall equal the sum of both of the following:

22 (i) The total number of hours worked in the LAMBRA for the
23 taxpayer by employees (not to exceed 2,000 hours per employee)
24 who are paid an hourly wage divided by 2,000.

25 (ii) The total number of months worked in the LAMBRA for
26 the taxpayer by employees who are salaried employees divided
27 by 12.

28 (C) In the case of a taxpayer who first commences doing
29 business in the LAMBRA during the taxable year, for purposes
30 of clauses (i) and (ii), respectively, of subparagraph (B), the
31 divisors “2,000” and “12” shall be multiplied by a fraction, the
32 numerator of which is the number of months of the taxable year
33 that the taxpayer was doing business in the LAMBRA and the
34 denominator of which is 12.

35 (4) “Net operating loss” means the loss determined under
36 Section 172 of the Internal Revenue Code, as modified by
37 Section 17276.1, attributable to the taxpayer’s business activities
38 within a LAMBRA prior to the LAMBRA expiration date. ~~The~~
39 ~~attributable loss shall be determined in accordance with Chapter~~

1 ~~17 (commencing with Section 25101) of Part 11, modified for~~
2 ~~purposes of this section as follows:~~

3 ~~(A) Loss shall be apportioned to a LAMBRA by multiplying~~
4 ~~total loss from the business by a fraction, the numerator of which~~
5 ~~is the property factor plus the payroll factor, and the denominator~~
6 ~~of which is 2.~~

7 ~~(B) “The LAMBRA” shall be substituted for “this state.”~~

8 ~~(5) A net operating loss carryover shall be a deduction only~~
9 ~~with respect to the taxpayer’s business income attributable to a~~
10 ~~LAMBRA.~~

11 ~~(6) Attributable income is that portion of the taxpayer’s~~
12 ~~California source business income that is apportioned to the~~
13 ~~LAMBRA. For that purpose, the taxpayer’s business income~~
14 ~~attributable to sources in this state first shall be determined in~~
15 ~~accordance with Chapter 17 (commencing with Section 25101)~~
16 ~~of Part 11. That business income shall be further apportioned to~~
17 ~~the LAMBRA in accordance with Article 2 (commencing with~~
18 ~~Section 25120) of Chapter 17 of Part 11, modified for purposes~~
19 ~~of this subdivision as follows:~~

20 ~~(A) Business income shall be apportioned to a LAMBRA by~~
21 ~~multiplying total California business income of the taxpayer by a~~
22 ~~fraction, the numerator of which is the property factor plus the~~
23 ~~payroll factor, and the denominator of which is two. For purposes~~
24 ~~of this clause:~~

25 ~~(i) The property factor is a fraction, the numerator of which is~~
26 ~~the average value of the taxpayer’s real and tangible personal~~
27 ~~property owned or rented and used in the LAMBRA during the~~
28 ~~taxable year, and the denominator of which is the average value~~
29 ~~of all the taxpayer’s real and tangible personal property owned or~~
30 ~~rented and used in this state during the taxable year.~~

31 ~~(ii) The payroll factor is a fraction, the numerator of which is~~
32 ~~the total amount paid by the taxpayer in the LAMBRA during the~~
33 ~~taxable year for compensation, and the denominator of which is~~
34 ~~the total compensation paid by the taxpayer in this state during~~
35 ~~the taxable year.~~

36 ~~(B) If a loss carryover is allowable pursuant to this section for~~
37 ~~any taxable year after the LAMBRA designation has expired, the~~
38 ~~LAMBRA shall be deemed to remain in existence for purposes~~
39 ~~of computing the limitation specified in paragraph (5) and~~
40 ~~allowing a net operating loss deduction.~~

1 ~~(7)–~~

2 (5) “LAMBRA expiration date” means the date the
3 LAMBRA designation expires, is no longer binding, or becomes
4 inoperative pursuant to Section 7110 of the Government Code.

5 (b) A taxpayer who qualifies as a “qualified taxpayer” under
6 one or more sections shall, for the taxable year of the net
7 operating loss and any taxable year to which that net operating
8 loss may be carried, designate on the original return filed for
9 each year the section that applies to that taxpayer with respect to
10 that net operating loss. If the taxpayer is eligible to qualify under
11 more than one section, the designation is to be made after taking
12 into account subdivision (c).

13 (c) If a taxpayer is eligible to qualify under this section and
14 either Section 17276.2, 17276.4, or 17276.6 as a “qualified
15 taxpayer,” with respect to a net operating loss in a taxable year,
16 the taxpayer shall designate which section is to apply to the
17 taxpayer.

18 (d) Notwithstanding Section 17276, the amount of the loss
19 determined under this section or Section 17276.2, 17276.4, or
20 17276.6 shall be the only net operating loss allowed to be carried
21 over from that taxable year and the designation under subdivision
22 (b) shall be included in the election under Section 17276.1.

23 (e) This section shall apply to taxable years beginning on or
24 after January 1, 1998.

25 *SEC. 27. Section 17276.6 of the Revenue and Taxation Code*
26 *is amended to read:*

27 17276.6. (a) For each taxable year beginning on or after
28 January 1, 1998, the term “qualified taxpayer” as used in Section
29 17276.1 includes a person or entity that meets both of the
30 following:

31 (1) Is engaged in a trade or business within a targeted tax area
32 designated pursuant to Chapter 12.93 (commencing with Section
33 7097) of Division 7 of Title 1 of the Government Code.

34 (2) Is engaged in those lines of business described in Codes
35 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299,
36 inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive,
37 of the Standard Industrial Classification (SIC) Manual published
38 by the United States Office of Management and Budget, 1987
39 edition. In the case of any pass-through entity, the determination

1 of whether a taxpayer is a qualified taxpayer under this section
2 shall be made at the entity level.

3 (b) For purposes of subdivision (a), all of the following shall
4 apply:

5 (1) A net operating loss shall not be a net operating loss
6 carryback to any taxable year and a net operating loss for any
7 taxable year beginning on or after the date that the area in which
8 the qualified taxpayer conducts a trade or business is designated
9 as a targeted tax area shall be a net operating loss carryover to
10 each of the ~~15~~ 17 taxable years following the taxable year of loss.

11 (2) “Net operating loss” means the loss determined under
12 Section 172 of the Internal Revenue Code, as modified by
13 Section 17276.1, attributable to the qualified taxpayer’s business
14 activities within the targeted tax area (as defined in Chapter
15 12.93 (commencing with Section 7097) of Division 7 of Title 1
16 of the Government Code) prior to the targeted tax area expiration
17 date. ~~That attributable loss shall be determined in accordance~~
18 ~~with Chapter 17 (commencing with Section 25101) of Part 11,~~
19 ~~modified for purposes of this section as follows:~~

20 (A) ~~Loss shall be apportioned to the targeted tax area by~~
21 ~~multiplying total loss from the business by a fraction, the~~
22 ~~numerator of which is the property factor plus the payroll factor,~~
23 ~~and the denominator of which is 2.~~

24 (B) ~~“The targeted tax area” shall be substituted for “this state.”~~

25 (3) ~~A net operating loss carryover shall be a deduction only~~
26 ~~with respect to the qualified taxpayer’s business income~~
27 ~~attributable to the targeted tax area as defined in Chapter 12.93~~
28 ~~(commencing with Section 7097) of Division 7 of Title 1 of the~~
29 ~~Government Code.~~

30 (4) ~~Attributable income shall be that portion of the qualified~~
31 ~~taxpayer’s California source business income that is apportioned~~
32 ~~to the targeted tax area. For that purpose, the qualified taxpayer’s~~
33 ~~business income attributable to sources in this state first shall be~~
34 ~~determined in accordance with Chapter 17 (commencing with~~
35 ~~Section 25101) of Part 11. That business income shall be further~~
36 ~~apportioned to the targeted tax area in accordance with Article 2~~
37 ~~(commencing with Section 25120) of Chapter 17 of Part 11,~~
38 ~~modified for purposes of this subdivision as follows:~~

39 (A) ~~Business income shall be apportioned to the targeted tax~~
40 ~~area by multiplying the total business income of the taxpayer by~~

1 a fraction, the numerator of which is the property factor plus the
2 payroll factor, and the denominator of which is two. For purposes
3 of this clause:

4 (i) The property factor is a fraction, the numerator of which is
5 the average value of the taxpayer's real and tangible personal
6 property owned or rented and used in the targeted tax area during
7 the taxable year, and the denominator of which is the average
8 value of all the taxpayer's real and tangible personal property
9 owned or rented and used in this state during the taxable year.

10 (ii) The payroll factor is a fraction, the numerator of which is
11 the total amount paid by the taxpayer in the targeted tax area
12 during the taxable year for compensation, and the denominator of
13 which is the total compensation paid by the taxpayer in this state
14 during the taxable year.

15 (B) If a loss carryover is allowable pursuant to this subdivision
16 for any taxable year after the targeted tax area expiration date, the
17 targeted tax area designation shall be deemed to remain in
18 existence for purposes of computing the limitation specified in
19 subparagraph (B) and allowing a net operating loss deduction.

20 (5)–

21 (3) “Targeted tax area expiration date” means the date the
22 targeted tax area designation expires, is revoked, is no longer
23 binding, or becomes inoperative.

24 (b)–

25 (c) A taxpayer who qualifies as a “qualified taxpayer” under
26 one or more sections shall, for the taxable year of the net
27 operating loss and any taxable year to which that net operating
28 loss may be carried, designate on the original return filed for
29 each year the section that applies to that taxpayer with respect to
30 that net operating loss. If the taxpayer is eligible to qualify under
31 more than one section, the designation is to be made after taking
32 into account subdivision (c).

33 (e)–

34 (d) If a taxpayer is eligible to qualify under this section and
35 either Section 17276.2, 17276.4, or 17276.5 as a “qualified
36 taxpayer,” with respect to a net operating loss in a taxable year,
37 the taxpayer shall designate which section is to apply to the
38 taxpayer.

39 (d)–

1 (e) Notwithstanding Section 17276, the amount of the loss
2 determined under this section or Section 17276.2, 17276.4, or
3 17276.5 shall be the only net operating loss allowed to be carried
4 over from that taxable year and the designation under subdivision
5 (b) shall be included in the election under Section 17276.1.

6 ~~(e)–~~

7 (f) This section shall apply to taxable years beginning on or
8 after January 1, 1998.

9 *SEC. 28. Section 23622.7 of the Revenue and Taxation Code*
10 *is amended to read:*

11 23622.7. (a) There shall be allowed a credit against the “tax”
12 (as defined by Section 23036) to a taxpayer who employs a
13 qualified employee in an enterprise zone during the taxable year.
14 The credit shall be equal to the sum of each of the following:

15 (1) Fifty percent of qualified wages in the first year of
16 employment.

17 (2) Forty percent of qualified wages in the second year of
18 employment.

19 (3) Thirty percent of qualified wages in the third year of
20 employment.

21 (4) Twenty percent of qualified wages in the fourth year of
22 employment.

23 (5) Ten percent of qualified wages in the fifth year of
24 employment.

25 (b) For purposes of this section:

26 (1) “Qualified wages” means:

27 (A) (i) Except as provided in clause (ii), that portion of wages
28 paid or incurred by the taxpayer during the taxable year to
29 qualified employees that does not exceed 150 percent of the
30 minimum wage.

31 (ii) For up to 1,350 qualified employees who are employed by
32 the taxpayer in the Long Beach Enterprise Zone in aircraft
33 manufacturing activities described in Codes 3721 to 3728,
34 inclusive, and Code 3812 of the Standard Industrial
35 Classification (SIC) Manual published by the United States
36 Office of Management and Budget, 1987 edition, “qualified
37 wages” means that portion of hourly wages that does not exceed
38 202 percent of the minimum wage.

39 (B) Wages received during the 60-month period beginning
40 with the first day the employee commences employment with the

1 taxpayer. Reemployment in connection with any increase,
2 including a regularly occurring seasonal increase, in the trade or
3 business operations of the taxpayer does not constitute
4 commencement of employment for purposes of this section.

5 (C) Qualified wages do not include any wages paid or incurred
6 by the taxpayer on or after the zone expiration date. However,
7 wages paid or incurred with respect to qualified employees who
8 are employed by the taxpayer within the enterprise zone within
9 the 60-month period prior to the zone expiration date shall
10 continue to qualify for the credit under this section after the zone
11 expiration date, in accordance with all provisions of this section
12 applied as if the enterprise zone designation were still in
13 existence and binding.

14 (2) “Minimum wage” means the wage established by the
15 Industrial Welfare Commission as provided for in Chapter 1
16 (commencing with Section 1171) of Part 4 of Division 2 of the
17 Labor Code.

18 (3) “Zone expiration date” means the date the enterprise zone
19 designation expires, is no longer binding, or becomes
20 inoperative.

21 (4) (A) “Qualified employee” means an individual who meets
22 all of the following requirements:

23 (i) At least 90 percent of whose services for the taxpayer
24 during the taxable year are directly related to the conduct of the
25 taxpayer’s trade or business located in an enterprise zone.

26 (ii) Performs at least 50 percent of his or her services for the
27 taxpayer during the taxable year in an enterprise zone.

28 (iii) Is hired by the taxpayer after the date of original
29 designation of the area in which services were performed as an
30 enterprise zone.

31 (iv) Is any of the following:

32 (I) Immediately preceding the qualified employee’s
33 commencement of employment with the taxpayer, was a person
34 eligible for services under the federal Job Training Partnership
35 Act (29 U.S.C. Sec. 1501 et seq.), or its successor, who is
36 receiving, or is eligible to receive, subsidized employment,
37 training, or services funded by the federal Job Training
38 Partnership Act, or its successor.

39 (II) Immediately preceding the qualified employee’s
40 commencement of employment with the taxpayer, was a person

1 eligible to be a voluntary or mandatory registrant under the
2 Greater Avenues for Independence Act of 1985 (GAIN) provided
3 for pursuant to Article 3.2 (commencing with Section 11320) of
4 Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions
5 Code, or its successor.

6 (III) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was an
8 economically disadvantaged individual 14 years of age or older.

9 (IV) Immediately preceding the qualified employee's
10 commencement of employment with the taxpayer, was a
11 dislocated worker who meets any of the following:

12 (aa) Has been terminated or laid off or who has received a
13 notice of termination or layoff from employment, is eligible for
14 or has exhausted entitlement to unemployment insurance
15 benefits, and is unlikely to return to his or her previous industry
16 or occupation.

17 (bb) Has been terminated or has received a notice of
18 termination of employment as a result of any permanent closure
19 or any substantial layoff at a plant, facility, or enterprise,
20 including an individual who has not received written notification
21 but whose employer has made a public announcement of the
22 closure or layoff.

23 (cc) Is long-term unemployed and has limited opportunities for
24 employment or reemployment in the same or a similar
25 occupation in the area in which the individual resides, including
26 an individual 55 years of age or older who may have substantial
27 barriers to employment by reason of age.

28 (dd) Was self-employed (including farmers and ranchers) and
29 is unemployed as a result of general economic conditions in the
30 community in which he or she resides or because of natural
31 disasters.

32 (ee) Was a civilian employee of the Department of Defense
33 employed at a military installation being closed or realigned
34 under the Defense Base Closure and Realignment Act of 1990.

35 (ff) Was an active member of the armed forces or National
36 Guard as of September 30, 1990, and was either involuntarily
37 separated or separated pursuant to a special benefits program.

38 (gg) Is a seasonal or migrant worker who experiences chronic
39 seasonal unemployment and underemployment in the agriculture

1 industry, aggravated by continual advancements in technology
2 and mechanization.

3 (hh) Has been terminated or laid off, or has received a notice
4 of termination or layoff, as a consequence of compliance with the
5 Clean Air Act.

6 (V) Immediately preceding the qualified employee's
7 commencement of employment with the taxpayer, was a disabled
8 individual who is eligible for or enrolled in, or has completed a
9 state rehabilitation plan or is a service-connected disabled
10 veteran, veteran of the Vietnam era, or veteran who is recently
11 separated from military service.

12 (VI) Immediately preceding the qualified employee's
13 commencement of employment with the taxpayer, was an
14 ex-offender. An individual shall be treated as convicted if he or
15 she was placed on probation by a state court without a finding of
16 guilt.

17 (VII) Immediately preceding the qualified employee's
18 commencement of employment with the taxpayer, was a person
19 eligible for or a recipient of any of the following:

20 (aa) Federal Supplemental Security Income benefits.

21 (bb) Aid to Families with Dependent Children.

22 (cc) Food stamps.

23 (dd) State and local general assistance.

24 (VIII) Immediately preceding the qualified employee's
25 commencement of employment with the taxpayer, was a member
26 of a federally recognized Indian tribe, band, or other group of
27 Native American descent.

28 (IX) Immediately preceding the qualified employee's
29 commencement of employment with the taxpayer, was a resident
30 of a targeted employment area (as defined in Section 7072 of the
31 Government Code).

32 (X) An employee who qualified the taxpayer for the enterprise
33 zone hiring credit under former Section 23622 or the program
34 area hiring credit under former Section 23623.

35 (XI) Immediately preceding the qualified employee's
36 commencement of employment with the taxpayer, was a member
37 of a targeted group, as defined in Section 51(d) of the Internal
38 Revenue Code, or its successor.

39 (B) Priority for employment shall be provided to an individual
40 who is enrolled in a qualified program under the federal Job

1 Training Partnership Act or the Greater Avenues for
2 Independence Act of 1985 or who is eligible as a member of a
3 targeted group under the Work Opportunity Tax Credit (Section
4 51 of the Internal Revenue Code), or its successor.

5 (5) “Taxpayer” means a corporation engaged in a trade or
6 business within an enterprise zone designated pursuant to
7 Chapter 12.8 (commencing with Section 7070) of Division 7 of
8 Title 1 of the Government Code.

9 (6) “Seasonal employment” means employment by a taxpayer
10 that has regular and predictable substantial reductions in trade or
11 business operations.

12 (c) The taxpayer shall do both of the following:

13 (1) Obtain from the Employment Development Department, as
14 permitted by federal law, the local county or city Job Training
15 Partnership Act administrative entity, the local county GAIN
16 office or social services agency, or the local government
17 administering the enterprise zone, a certification that provides
18 that a qualified employee meets the eligibility requirements
19 specified in clause (iv) of subparagraph (A) of paragraph (4) of
20 subdivision (b). The Employment Development Department may
21 provide preliminary screening and referral to a certifying agency.
22 The Employment Development Department shall develop a form
23 for this purpose. The Department of Housing and Community
24 Development shall develop regulations governing the issuance of
25 certificates by local governments pursuant to subdivision (a) of
26 Section 7086 of the Government Code.

27 (2) Retain a copy of the certification and provide it upon
28 request to the Franchise Tax Board.

29 (d) (1) For purposes of this section:

30 (A) All employees of all corporations which are members of
31 the same controlled group of corporations shall be treated as
32 employed by a single taxpayer.

33 (B) The credit, if any, allowable by this section to each
34 member shall be determined by reference to its proportionate
35 share of the expense of the qualified wages giving rise to the
36 credit, and shall be allocated in that manner.

37 (C) For purposes of this subdivision, “controlled group of
38 corporations” means “controlled group of corporations” as
39 defined in Section 1563(a) of the Internal Revenue Code, except
40 that:

1 (i) “More than 50 percent” shall be substituted for “at least 80
2 percent” each place it appears in Section 1563(a)(1) of the
3 Internal Revenue Code.

4 (ii) The determination shall be made without regard to
5 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
6 Revenue Code.

7 (2) If an employer acquires the major portion of a trade or
8 business of another employer (hereinafter in this paragraph
9 referred to as the “predecessor”) or the major portion of a
10 separate unit of a trade or business of a predecessor, then, for
11 purposes of applying this section (other than subdivision (e)) for
12 any calendar year ending after that acquisition, the employment
13 relationship between a qualified employee and an employer shall
14 not be treated as terminated if the employee continues to be
15 employed in that trade or business.

16 (e) (1) (A) If the employment, other than seasonal
17 employment, of any qualified employee with respect to whom
18 qualified wages are taken into account under subdivision (a) is
19 terminated by the taxpayer at any time during the first 270 days
20 of that employment, whether or not consecutive, or before the
21 close of the 270th calendar day after the day in which that
22 employee completes 90 days of employment with the taxpayer,
23 the tax imposed by this part for the taxable year in which that
24 employment is terminated shall be increased by an amount equal
25 to the credit allowed under subdivision (a) for that taxable year
26 and all prior taxable years attributable to qualified wages paid or
27 incurred with respect to that employee.

28 (B) If the seasonal employment of any qualified employee,
29 with respect to whom qualified wages are taken into account
30 under subdivision (a) is not continued by the taxpayer for a
31 period of 270 days of employment during the 60-month period
32 beginning with the day the qualified employee commences
33 seasonal employment with the taxpayer, the tax imposed by this
34 part, for the taxable year that includes the 60th month following
35 the month in which the qualified employee commences seasonal
36 employment with the taxpayer, shall be increased by an amount
37 equal to the credit allowed under subdivision (a) for that taxable
38 year and all prior taxable years attributable to qualified wages
39 paid or incurred with respect to that qualified employee.

1 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
2 any of the following:

3 (i) A termination of employment of a qualified employee who
4 voluntarily leaves the employment of the taxpayer.

5 (ii) A termination of employment of a qualified employee
6 who, before the close of the period referred to in subparagraph
7 (A) of paragraph (1), becomes disabled and unable to perform the
8 services of that employment, unless that disability is removed
9 before the close of that period and the taxpayer fails to offer
10 reemployment to that employee.

11 (iii) A termination of employment of a qualified employee, if
12 it is determined that the termination was due to the misconduct
13 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
14 of the California Code of Regulations) of that employee.

15 (iv) A termination of employment of a qualified employee due
16 to a substantial reduction in the trade or business operations of
17 the taxpayer.

18 (v) A termination of employment of a qualified employee, if
19 that employee is replaced by other qualified employees so as to
20 create a net increase in both the number of employees and the
21 hours of employment.

22 (B) Subparagraph (B) of paragraph (1) shall not apply to any
23 of the following:

24 (i) A failure to continue the seasonal employment of a
25 qualified employee who voluntarily fails to return to the seasonal
26 employment of the taxpayer.

27 (ii) A failure to continue the seasonal employment of a
28 qualified employee who, before the close of the period referred to
29 in subparagraph (B) of paragraph (1), becomes disabled and
30 unable to perform the services of that seasonal employment,
31 unless that disability is removed before the close of that period
32 and the taxpayer fails to offer seasonal employment to that
33 qualified employee.

34 (iii) A failure to continue the seasonal employment of a
35 qualified employee, if it is determined that the failure to continue
36 the seasonal employment was due to the misconduct (as defined
37 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
38 California Code of Regulations) of that qualified employee.

1 (iv) A failure to continue seasonal employment of a qualified
2 employee due to a substantial reduction in the regular seasonal
3 trade or business operations of the taxpayer.

4 (v) A failure to continue the seasonal employment of a
5 qualified employee, if that qualified employee is replaced by
6 other qualified employees so as to create a net increase in both
7 the number of seasonal employees and the hours of seasonal
8 employment.

9 (C) For purposes of paragraph (1), the employment
10 relationship between the taxpayer and a qualified employee shall
11 not be treated as terminated by either of the following:

12 (i) By a transaction to which Section 381(a) of the Internal
13 Revenue Code applies, if the qualified employee continues to be
14 employed by the acquiring corporation.

15 (ii) By reason of a mere change in the form of conducting the
16 trade or business of the taxpayer, if the qualified employee
17 continues to be employed in that trade or business and the
18 taxpayer retains a substantial interest in that trade or business.

19 (3) Any increase in tax under paragraph (1) shall not be treated
20 as tax imposed by this part for purposes of determining the
21 amount of any credit allowable under this part.

22 (f) Rules similar to the rules provided in Section 46(e) and (h)
23 of the Internal Revenue Code shall apply to both of the
24 following:

25 (1) An organization to which Section 593 of the Internal
26 Revenue Code applies.

27 (2) A regulated investment company or a real estate
28 investment trust subject to taxation under this part.

29 (g) For purposes of this section, “enterprise zone” means an
30 area designated as an enterprise zone pursuant to Chapter 12.8
31 (commencing with Section 7070) of Division 7 of Title 1 of the
32 Government Code.

33 (h) The credit allowable under this section shall be reduced by
34 the credit allowed under Sections 23623.5, 23625, and 23646
35 claimed for the same employee. The credit shall also be reduced
36 by the federal credit allowed under Section 51 of the Internal
37 Revenue Code.

38 In addition, any deduction otherwise allowed under this part
39 for the wages or salaries paid or incurred by the taxpayer upon

1 which the credit is based shall be reduced by the amount of the
2 credit, prior to any reduction required by subdivision (i) or (j).

3 (i) In the case where the credit otherwise allowed under this
4 section exceeds the “tax” for the taxable year, that portion of the
5 credit that exceeds the “tax” may be carried over and added to
6 the credit, if any, in succeeding taxable years, until the credit is
7 exhausted. The credit shall be applied first to the earliest taxable
8 years possible.

9 (j) (1) The amount of the credit otherwise allowed under this
10 section and Section 23612.2, including any credit carryover from
11 prior years, that may reduce the “tax” for the taxable year shall
12 not exceed the amount of tax which would be imposed on the
13 taxpayer’s business income attributable to the enterprise zone
14 determined as if that attributable income represented all of the
15 income of the taxpayer subject to tax under this part.

16 (2) Attributable income shall be that portion of the taxpayer’s
17 California source business income that is apportioned to the
18 enterprise zone. For that purpose, the taxpayer’s business
19 attributable to sources in this state first shall be determined in
20 accordance with Chapter 17 (commencing with Section 25101).
21 That business income shall be further apportioned to the
22 enterprise zone in accordance with Article 2 (commencing with
23 Section 25120) of Chapter 17, modified for purposes of this
24 section in accordance with paragraph (3).

25 (3) Business income shall be apportioned to the enterprise
26 zone by multiplying the total California business income of the
27 taxpayer by a fraction, the numerator of which is the property
28 factor plus the payroll factor, and the denominator of which is
29 two. For purposes of this paragraph:

30 (A) The property factor is a fraction, the numerator of which is
31 the average value of the taxpayer’s real and tangible personal
32 property owned or rented and used in the enterprise zone during
33 the income year, and the denominator of which is the average
34 value of all the taxpayer’s real and tangible personal property
35 owned or rented and used in this state during the income year.

36 (B) The payroll factor is a fraction, the numerator of which is
37 the total amount paid by the taxpayer in the enterprise zone
38 during the income year for compensation, and the denominator of
39 which is the total compensation paid by the taxpayer in this state
40 during the income year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (i).

(k) The changes made to this section by the act adding this subdivision shall apply to taxable years on or after January 1, 1997.

(l) (1) The credit authorized by this section shall not be applicable on or after January 1, 2007.

(2) On or after January 1, 2007, taxpayers that would otherwise be eligible to claim a credit authorized by this section, may claim a credit for these expenses under Section 23622.9.

(3) Notwithstanding this subdivision, the provisions of subdivision (f) of Section 23036 shall apply with respect to any remaining carryover of the credit previously authorized by this section.

SEC. 29. Section 23622.8 of the Revenue and Taxation Code is amended to read:

23622.8. (a) For each taxable year beginning on or after January 1, 1998, there shall be allowed a credit against the “tax” (as defined in Section 23036) to a qualified taxpayer for hiring a qualified disadvantaged individual during the taxable year for employment in the Manufacturing Enhancement Area. The credit shall be equal to the sum of each of the following:

(1) Fifty percent of the qualified wages in the first year of employment.

(2) Forty percent of the qualified wages in the second year of employment.

(3) Thirty percent of the qualified wages in the third year of employment.

(4) Twenty percent of the qualified wages in the fourth year of employment.

(5) Ten percent of the qualified wages in the fifth year of employment.

(b) For purposes of this section:

(1) “Qualified wages” means:

(A) That portion of wages paid or incurred by the qualified taxpayer during the taxable year to qualified disadvantaged individuals that does not exceed 150 percent of the minimum wage.

1 (B) The total amount of qualified wages which may be taken
2 into account for purposes of claiming the credit allowed under
3 this section shall not exceed two million dollars (\$2,000,000) per
4 taxable year.

5 (C) Wages received during the 60-month period beginning
6 with the first day the qualified disadvantaged individual
7 commences employment with the qualified taxpayer.
8 Reemployment in connection with any increase, including a
9 regularly occurring seasonal increase, in the trade or business
10 operations of the qualified taxpayer does not constitute
11 commencement of employment for purposes of this section.

12 (D) Qualified wages do not include any wages paid or incurred
13 by the qualified taxpayer on or after the Manufacturing
14 Enhancement Area expiration date. However, wages paid or
15 incurred with respect to qualified employees who are employed
16 by the qualified taxpayer within the Manufacturing Enhancement
17 Area within the 60-month period prior to the Manufacturing
18 Enhancement Area expiration date shall continue to qualify for
19 the credit under this section after the Manufacturing
20 Enhancement Area expiration date, in accordance with all
21 provisions of this section applied as if the Manufacturing
22 Enhancement Area designation were still in existence and
23 binding.

24 (2) “Minimum wage” means the wage established by the
25 Industrial Welfare Commission as provided for in Chapter 1
26 (commencing with Section 1171) of Part 4 of Division 2 of the
27 Labor Code.

28 (3) “Manufacturing Enhancement Area” means an area
29 designated pursuant to Section 7073.8 of the Government Code
30 according to the procedures of Chapter 12.8 (commencing with
31 Section 7070) of Division 7 of Title 1 of the Government Code.

32 (4) “Manufacturing Enhancement Area expiration date” means
33 the date the Manufacturing Enhancement Area designation
34 expires, is no longer binding, or becomes inoperative.

35 (5) “Qualified disadvantaged individual” means an individual
36 who satisfies all of the following requirements:

37 (A) (i) At least 90 percent of whose services for the qualified
38 taxpayer during the taxable year are directly related to the
39 conduct of the qualified taxpayer’s trade or business located in a
40 Manufacturing Enhancement Area.

1 (ii) Who performs at least 50 percent of his or her services for
2 the qualified taxpayer during the taxable year in the
3 Manufacturing Enhancement Area.

4 (B) Who is hired by the qualified taxpayer after the
5 designation of the area as a Manufacturing Enhancement Area in
6 which the individual's services were primarily performed.

7 (C) Who is any of the following immediately preceding the
8 individual's commencement of employment with the qualified
9 taxpayer:

10 (i) An individual who has been determined eligible for
11 services under the federal Job Training Partnership Act (29
12 U.S.C. Sec. 1501 et seq.) or its successor.

13 (ii) Any voluntary or mandatory registrant under the Greater
14 Avenues for Independence Act of 1985, or its successor, as
15 provided pursuant to Article 3.2 (commencing with Section
16 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
17 Institutions Code.

18 (iii) Any individual who has been certified eligible by the
19 Employment Development Department under the federal
20 Targeted Jobs Tax Credit Program, or its successor, whether or
21 not this program is in effect.

22 (6) "Qualified taxpayer" means any corporation engaged in a
23 trade or business within a Manufacturing Enhancement Area
24 designated pursuant to Section 7073.8 of the Government Code
25 and that meets all of the following requirements:

26 (A) Is engaged in those lines of business described in Codes
27 0211 to 0291, inclusive, Code 0723, or in Codes 2011 to 3999,
28 inclusive, of the Standard Industrial Classification (SIC) Manual
29 published by the United States Office of Management and
30 Budget, 1987 edition.

31 (B) At least 50 percent of the qualified taxpayer's workforce
32 hired after the designation of the Manufacturing Enhancement
33 Area is composed of individuals who, at the time of hire, are
34 residents of the county in which the Manufacturing Enhancement
35 Area is located.

36 (C) Of this percentage of local hires, at least 30 percent shall
37 be qualified disadvantaged individuals.

38 (7) "Seasonal employment" means employment by a qualified
39 taxpayer that has regular and predictable substantial reductions in
40 trade or business operations.

1 (c) (1) For purposes of this section, all of the following apply:

2 (A) All employees of all corporations that are members of the
3 same controlled group of corporations shall be treated as
4 employed by a single qualified taxpayer.

5 (B) The credit (if any) allowable by this section with respect to
6 each member shall be determined by reference to its
7 proportionate share of the expenses of the qualified wages giving
8 rise to the credit and shall be allocated in that manner.

9 (C) Principles that apply in the case of controlled groups of
10 corporations, as specified in subdivision (d) of Section 23622.7,
11 shall apply with respect to determining employment.

12 (2) If a qualified taxpayer acquires the major portion of a trade
13 or business of another employer (hereinafter in this paragraph
14 referred to as the “predecessor”) or the major portion of a
15 separate unit of a trade or business of a predecessor, then, for
16 purposes of applying this section (other than subdivision (d)) for
17 any calendar year ending after that acquisition, the employment
18 relationship between a qualified disadvantaged individual and a
19 qualified taxpayer shall not be treated as terminated if the
20 qualified disadvantaged individual continues to be employed in
21 that trade or business.

22 (d) (1) (A) If the employment, other than seasonal
23 employment, of any qualified disadvantaged individual, with
24 respect to whom qualified wages are taken into account under
25 subdivision (b) is terminated by the qualified taxpayer at any
26 time during the first 270 days of that employment (whether or not
27 consecutive) or before the close of the 270th calendar day after
28 the day in which that qualified disadvantaged individual
29 completes 90 days of employment with the qualified taxpayer,
30 the tax imposed by this part for the taxable year in which that
31 employment is terminated shall be increased by an amount equal
32 to the credit allowed under subdivision (a) for that taxable year
33 and all prior taxable years attributable to qualified wages paid or
34 incurred with respect to that qualified disadvantaged individual.

35 (B) If the seasonal employment of any qualified disadvantaged
36 individual, with respect to whom qualified wages are taken into
37 account under subdivision (a) is not continued by the qualified
38 taxpayer for a period of 270 days of employment during the
39 60-month period beginning with the day the qualified
40 disadvantaged individual commences seasonal employment with

1 the qualified taxpayer, the tax imposed by this part, for the
2 income year that includes the 60th month following the month in
3 which the qualified disadvantaged individual commences
4 seasonal employment with the qualified taxpayer, shall be
5 increased by an amount equal to the credit allowed under
6 subdivision (a) for that taxable year and all prior taxable years
7 attributable to qualified wages paid or incurred with respect to
8 that qualified disadvantaged individual.

9 (2) (A) Subparagraph (A) of paragraph (1) does not apply to
10 any of the following:

11 (i) A termination of employment of a qualified disadvantaged
12 individual who voluntarily leaves the employment of the
13 qualified taxpayer.

14 (ii) A termination of employment of a qualified disadvantaged
15 individual who, before the close of the period referred to in
16 subparagraph (A) of paragraph (1), becomes disabled to perform
17 the services of that employment, unless that disability is removed
18 before the close of that period and the qualified taxpayer fails to
19 offer reemployment to that individual.

20 (iii) A termination of employment of a qualified disadvantaged
21 individual, if it is determined that the termination was due to the
22 misconduct (as defined in Sections 1256-30 to 1256-43,
23 inclusive, of Title 22 of the California Code of Regulations) of
24 that individual.

25 (iv) A termination of employment of a qualified disadvantaged
26 individual due to a substantial reduction in the trade or business
27 operations of the qualified taxpayer.

28 (v) A termination of employment of a qualified disadvantaged
29 individual, if that individual is replaced by other qualified
30 disadvantaged individuals so as to create a net increase in both
31 the number of employees and the hours of employment.

32 (B) Subparagraph (B) of paragraph (1) shall not apply to any
33 of the following:

34 (i) A failure to continue the seasonal employment of a
35 qualified disadvantaged individual who voluntarily fails to return
36 to the seasonal employment of the qualified taxpayer.

37 (ii) A failure to continue the seasonal employment of a
38 qualified disadvantaged individual who, before the close of the
39 period referred to in subparagraph (B) of paragraph (1), becomes
40 disabled and unable to perform the services of that seasonal

1 employment, unless that disability is removed before the close of
2 that period and the qualified taxpayer fails to offer seasonal
3 employment to that qualified disadvantaged individual.

4 (iii) A failure to continue the seasonal employment of a
5 qualified disadvantaged individual, if it is determined that the
6 failure to continue the seasonal employment was due to the
7 misconduct (as defined in Sections 1256-30 to 1256-43,
8 inclusive, of Title 22 of the California Code of Regulations) of
9 that qualified disadvantaged individual.

10 (iv) A failure to continue seasonal employment of a qualified
11 disadvantaged individual due to a substantial reduction in the
12 regular seasonal trade or business operations of the qualified
13 taxpayer.

14 (v) A failure to continue the seasonal employment of a
15 qualified disadvantaged individual, if that qualified
16 disadvantaged individual is replaced by other qualified
17 disadvantaged individuals so as to create a net increase in both
18 the number of seasonal employees and the hours of seasonal
19 employment.

20 (C) For purposes of paragraph (1), the employment
21 relationship between the qualified taxpayer and a qualified
22 disadvantaged individual shall not be treated as terminated by
23 either of the following:

24 (i) By a transaction to which Section 381(a) of the Internal
25 Revenue Code applies, if the qualified disadvantaged individual
26 continues to be employed by the acquiring corporation.

27 (ii) By reason of a mere change in the form of conducting the
28 trade or business of the qualified taxpayer, if the qualified
29 disadvantaged individual continues to be employed in that trade
30 or business and the qualified taxpayer retains a substantial
31 interest in that trade or business.

32 (3) Any increase in tax under paragraph (1) shall not be treated
33 as tax imposed by this part for purposes of determining the
34 amount of any credit allowable under this part.

35 (e) The credit shall be reduced by the credit allowed under
36 Section 23621. The credit shall also be reduced by the federal
37 credit allowed under Section 51 of the Internal Revenue Code.

38 In addition, any deduction otherwise allowed under this part
39 for the wages or salaries paid or incurred by the qualified
40 taxpayer upon which the credit is based shall be reduced by the

1 amount of the credit, prior to any reduction required by
2 subdivision (f) or (g).

3 (f) In the case where the credit otherwise allowed under this
4 section exceeds the “tax” for the taxable year, that portion of the
5 credit that exceeds the “tax” may be carried over and added to
6 the credit, if any, in succeeding years, until the credit is
7 exhausted. The credit shall be applied first to the earliest taxable
8 years possible.

9 (g) (1) The amount of credit otherwise allowed under this
10 section, including prior year credit carryovers, that may reduce
11 the “tax” for the taxable year shall not exceed the amount of tax
12 that would be imposed on the qualified taxpayer’s business
13 income attributed to a Manufacturing Enhancement Area
14 determined as if that attributed income represented all of the net
15 income of the qualified taxpayer subject to tax under this part.

16 (2) Attributable income is that portion of the taxpayer’s
17 California source business income that is apportioned to the
18 Manufacturing Enhancement Area. For that purpose, the
19 taxpayer’s business income attributable to sources in this state
20 first shall be determined in accordance with Chapter 17
21 (commencing with Section 25101). That business income shall
22 be further apportioned to the Manufacturing Enhancement Area
23 in accordance with Article 2 (commencing with Section 25120)
24 of Chapter 17, modified for purposes of this section in
25 accordance with paragraph (3).

26 (3) Income shall be apportioned to a Manufacturing
27 Enhancement Area by multiplying the total California business
28 income of the taxpayer by a fraction, the numerator of which is
29 the property factor plus the payroll factor, and the denominator of
30 which is two. For the purposes of this paragraph:

31 (A) The property factor is a fraction, the numerator of which is
32 the average value of the taxpayer’s real and tangible personal
33 property owned or rented and used in the Manufacturing
34 Enhancement Area during the taxable year, and the denominator
35 of which is the average value of all the taxpayer’s real and
36 tangible personal property owned or rented and used in this state
37 during the taxable year.

38 (B) The payroll factor is a fraction, the numerator of which is
39 the total amount paid by the taxpayer in the Manufacturing
40 Enhancement Area during the taxable year for compensation, and

1 the denominator of which is the total compensation paid by the
2 taxpayer in this state during the taxable year.

3 (4) The portion of any credit remaining, if any, after
4 application of this subdivision, shall be carried over to
5 succeeding taxable years, as if it were an amount exceeding the
6 “tax” for the taxable year, as provided in subdivision (g).

7 (h) If the taxpayer is allowed a credit pursuant to this section
8 for qualified wages paid or incurred, only one credit shall be
9 allowed to the taxpayer under this part with respect to any wage
10 consisting in whole or in part of those qualified wages.

11 (i) (1) *The credit authorized by this section shall not be*
12 *applicable on or after January 1, 2007.*

13 (2) *On or after January 1, 2007, taxpayers that would*
14 *otherwise be eligible to claim a credit authorized by this section,*
15 *may claim a credit for these expenses under Section 23622.9.*

16 (3) *Notwithstanding this subdivision, the provisions of*
17 *subdivision (f) of Section 23036 shall apply with respect to any*
18 *remaining carryover of the credit previously authorized by this*
19 *section.*

20 SEC. 30. *Section 23622.9 is added to the Revenue and*
21 *Taxation Code, to read:*

22 23622.9. (a) *For each taxable year beginning on or after*
23 *January 1, 2007, there shall be allowed a credit against the*
24 *“tax” (as defined in Section 23036) to a taxpayer who employs a*
25 *qualified employee in a geographically targeted economic*
26 *development area during the taxable year. The credit shall be*
27 *equal to the sum of each of the following:*

28 (1) *Fifty percent of qualified wages in the first year of*
29 *employment.*

30 (2) *Forty percent of qualified wages in the second year of*
31 *employment.*

32 (3) *Thirty percent of qualified wages in the third year of*
33 *employment.*

34 (4) *Twenty percent of qualified wages in the fourth year of*
35 *employment.*

36 (5) *Ten percent of qualified wages in the fifth year of*
37 *employment.*

38 (b) *For purposes of this section:*

39 (1) *“Geographically targeted economic development area”*
40 *means any of the following:*

1 (A) An enterprise zone designated as an enterprise zone
2 pursuant to Chapter 12.8 (commencing with Section 7070) of
3 Division 7 of Title 1 of the Government Code.

4 (B) A local agency military base recovery area designated as
5 a local agency military base recovery area pursuant to Chapter
6 12.97 (commencing with Section 7105).

7 (C) A targeted tax area designated as a targeted tax area
8 pursuant to Chapter 12.93 (commencing with Section 7097).

9 (D) A manufacturing enhancement area designated as a
10 manufacturing enhancement area pursuant to Chapter 12.8
11 (commencing with Section 7073.8).

12 (2) “Geographically targeted economic development area
13 expiration date” means the date the geographically targeted
14 economic development area designation expires, is no longer
15 binding, or becomes inoperative.

16 (3) “Minimum wage” means the wage established by the
17 Industrial Welfare Commission as provided for in Chapter 1
18 (commencing with Section 1171) of Part 4 of Division 2 of the
19 Labor Code.

20 (4) (A) “Qualified employee” means an individual who meets
21 all of the following requirements:

22 (i) At least 90 percent of whose services for the taxpayer
23 during the taxable year are directly related to the conduct of the
24 taxpayer’s trade or business located in a geographically targeted
25 economic development area.

26 (ii) Performs at least 50 percent of his or her services for the
27 taxpayer during the taxable year in a geographically targeted
28 economic development area.

29 (iii) Is hired by the taxpayer after the date of original
30 designation of the area in which services were performed as a
31 geographically targeted economic development area.

32 (iv) Is any of the following, as documented by the
33 geographically targeted economic development area
34 coordinator:

35 (I) Immediately preceding the qualified employee’s
36 commencement of employment with the taxpayer, was a person
37 enrolled and documented in the California Job Training
38 Automation System by an authorized WIA representative under
39 the federal Workforce Investment Act (29 U.S.C. Sec. 720 et
40 seq.), or its successor.

1 (II) Immediately preceding the qualified employee's
2 commencement of employment with the taxpayer, was a person
3 receiving benefits under the California Work Opportunity and
4 Responsibility to Kids program pursuant to Article 3.2
5 (commencing with Section 11200) of Chapter 2 of Part 3 of
6 Division 9 of the Welfare and Institutions Code, or its successor.

7 (III) Immediately preceding the qualified employee's
8 commencement of employment with the taxpayer, was an
9 economically disadvantaged individual 14 years of age or older.
10 For purposes of this section, "economically disadvantaged
11 individual" means an individual who meets the definition of that
12 term under the Workforce Investment Act, or its successor.

13 (IV) Immediately preceding the qualified employee's
14 commencement of employment with the taxpayer, was a
15 dislocated worker. For purposes of this section, a "dislocated
16 worker" means an individual who meets the definition of that
17 term under the Workforce Investment Act, or its successor.

18 (V) Immediately preceding the qualified employee's
19 commencement of employment with the taxpayer, was a disabled
20 individual who is eligible for or enrolled in, or has completed a
21 state rehabilitation plan.

22 (VI) Is a service-connected disabled veteran, veteran of the
23 Vietnam era, an individual who served in the active military,
24 naval, or air service, and who was discharged or released from
25 that service under conditions other than dishonorable, or any
26 veteran who was discharged or released in the last 48 months
27 from active military, naval, or an air service.

28 (VII) Has a prior felony conviction. An individual shall be
29 treated as convicted if he or she was placed on probation by a
30 state court without a finding of guilt.

31 (VIII) Immediately preceding the qualified employee's
32 commencement of employment with the taxpayer, was a person
33 receiving any of the following:

34 (aa) Federal Supplemental Security Income benefits.

35 (bb) Temporary Assistance for Needy Families.

36 (cc) Food stamps.

37 (dd) State and local general assistance.

38 (IX) Immediately preceding the qualified employee's
39 commencement of employment with the taxpayer, was a member

1 of a federally recognized Indian tribe, band, or other group of
2 Native American descent.

3 (X) Immediately preceding the qualified employee's
4 commencement of employment with the taxpayer, was a resident
5 of a targeted employment area, as defined in Section 7072 of the
6 Government Code.

7 (XI) Immediately preceding the qualified employee's
8 commencement of employment with the taxpayer, was a member
9 of a targeted group, as defined in Section 51(d) of the Internal
10 Revenue Code, or its successor.

11 (XII) Immediately preceding the qualified employee's
12 commencement of employment with the taxpayer, was a
13 "qualified former foster care recipient," which means an
14 individual who is certified by the local designated agency to have
15 met both the following:

16 (aa) Having attained age 17 but not age 25 on the hiring date.

17 (bb) Having, before attaining the age of 18, been either a
18 recipient of foster care maintenance payments under a state plan
19 approved under Part E of Title IV of the Social Security Act (42
20 U.S.C. Sec. 301), or in foster care under the responsibility of a
21 state.

22 (B) Priority for employment shall be provided to an individual
23 who is enrolled in a qualified program under the federal
24 Workforce Investment Act, or its successor, or the California
25 Work Opportunity and Responsibility to Kids program, or its
26 successor, or who is eligible as a member of a targeted group
27 under the Work Opportunity Tax Credit (Section 51 of the
28 Internal Revenue Code), or its successor.

29 (5) "Qualified wages" means:

30 (A) (i) Except as provided in clause (ii), that portion of wages
31 paid or incurred by the taxpayer during the taxable year to
32 qualified employees that does not exceed 150 percent of the
33 minimum wage.

34 (ii) For up to 1,350 qualified employees who are employed by
35 the taxpayer in the Long Beach Enterprise Zone in aircraft
36 manufacturing activities described in Codes 3721 to 3728,
37 inclusive, and Code 3812 of the Standard Industrial
38 Classification (SIC) Manual published by the United States
39 Office of Management and Budget, 1987 edition, "qualified

1 wages” means that portion of hourly wages that does not exceed
2 202 percent of the minimum wage.

3 (B) Wages received during the 60-month period beginning
4 with the first day the employee commences employment with the
5 taxpayer. Reemployment in connection with any increase,
6 including a regularly occurring seasonal increase, in the trade
7 or business operations of the taxpayer does not constitute
8 commencement of employment for purposes of this section.

9 (C) Qualified wages do not include any wages paid or
10 incurred by the taxpayer on or after the expiration date of the
11 geographically targeted economic development area. However,
12 wages paid or incurred with respect to qualified employees who
13 are employed by the taxpayer within the geographically targeted
14 economic development area within the 60-month period prior to
15 the zone expiration date shall continue to qualify for the credit
16 under this section after the expiration date of the geographically
17 targeted economic development area, in accordance with all
18 provisions of this section applied as if the geographically
19 targeted economic development area designation were still in
20 existence and binding.

21 (6) “Seasonal employment” means employment by a taxpayer
22 that has regular and predictable substantial reductions in trade
23 or business operations.

24 (7) “Taxpayer” means a person or entity engaged in a trade
25 or business within a geographically targeted economic
26 development area.

27 (c) The taxpayer shall do both of the following:

28 (1) Obtain from the geographically targeted economic
29 development area coordinator designated by the local
30 jurisdiction in which the employee is employed or, if serving that
31 geographically targeted economic development area, the
32 Employment Development Department, as permitted by federal
33 law, the local county or city Workforce Investment Act (or its
34 successor) administrative entity, or the local county CalWORKs
35 office or social services agency, or its successors, a certification
36 which provides that a qualified employee meets the eligibility
37 requirements specified in clause (iv) of subparagraph (A) of
38 paragraph (4) of subdivision (b). The Employment Development
39 Department may provide preliminary screening and referral to a
40 certifying agency. The Employment Development Department

1 shall develop a form for this purpose. The Department of
2 Housing and Community Development shall develop regulations
3 governing the issuance of certificates by local governments
4 pursuant to subdivision (a) of Section 7086 of the Government
5 Code. Applications for this certification shall be submitted to the
6 certifying agency within 24 months of the commencement date of
7 employment with the taxpayer. The certifying agency shall not
8 issue a certification when the employer or the employer's agent
9 is the second signatory on the applicant's statement for
10 establishing eligibility.

11 (2) Retain a copy of the certification and provide it upon
12 request to the Franchise Tax Board.

13 (d) (1) For purposes of this section:

14 (A) All employees of all corporations which are members of
15 the same controlled group of corporations shall be treated as
16 employed by a single taxpayer.

17 (B) The credit, if any, allowable by this section with respect to
18 each trade or business shall be determined by reference to its
19 proportionate share of the expense of the qualified wages giving
20 rise to the credit, and shall be allocated in that manner.

21 (C) For purposes of this subdivision, "controlled group of
22 corporations" means "controlled group of corporations" as
23 defined in Section 1563(a) of the Internal Revenue Code, except
24 that:

25 (i) "More than 50 percent" shall be substituted for "at least
26 80 percent" each place it appears in Section 1563 (a)(1) of the
27 Internal Revenue Code.

28 (ii) The determination shall be made without regard to
29 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
30 Revenue Code.

31 (2) If an employer acquires the major portion of a trade or
32 business of another employer (hereinafter in this paragraph
33 referred to as the "predecessor") or the major portion of a
34 separate unit of a trade or business of a predecessor, then, for
35 purposes of applying this section (other than subdivision (e)) for
36 any calendar year ending after that acquisition, the employment
37 relationship between a qualified employee and an employer shall
38 not be treated as terminated if the employee continues to be
39 employed in that trade or business.

1 (e) (I) (A) If the employment, other than seasonal
2 employment, of any qualified employee, with respect to whom
3 qualified wages are taken into account under subdivision (a) is
4 terminated by the taxpayer at any time during the first 270 days
5 of that employment (whether or not consecutive) or before the
6 close of the 270th calendar day after the day in which that
7 employee completes 90 days of employment with the taxpayer;
8 the tax imposed by this part for the taxable year in which that
9 employment is terminated shall be increased by an amount equal
10 to the credit allowed under subdivision (a) for that taxable year
11 and all prior taxable years attributable to qualified wages paid
12 or incurred with respect to that employee.

13 (B) If the seasonal employment of any qualified employee, with
14 respect to whom qualified wages are taken into account under
15 subdivision (a) is not continued by the taxpayer for a period of
16 270 days of employment during the 60-month period beginning
17 with the day the qualified employee commences seasonal
18 employment with the taxpayer, the tax imposed by this part, for
19 the taxable year that includes the 60th month following the
20 month in which the qualified employee commences seasonal
21 employment with the taxpayer, shall be increased by an amount
22 equal to the credit allowed under subdivision (a) for that taxable
23 year and all prior taxable years attributable to qualified wages
24 paid or incurred with respect to that qualified employee.

25 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
26 any of the following:

27 (i) A termination of employment of a qualified employee who
28 voluntarily leaves the employment of the taxpayer.

29 (ii) A termination of employment of a qualified employee who,
30 before the close of the period referred to in paragraph (1),
31 becomes disabled and unable to perform the services of that
32 employment, unless that disability is removed before the close of
33 that period and the taxpayer fails to offer reemployment to that
34 employee.

35 (iii) A termination of employment of a qualified employee, if it
36 is determined that the termination was due to the misconduct (as
37 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
38 the California Code of Regulations) of that employee.

1 (iv) A termination of employment of a qualified employee due
2 to a substantial reduction in the trade or business operations of
3 the taxpayer.

4 (v) A termination of employment of a qualified employee, if
5 that employee is replaced by other qualified employees so as to
6 create a net increase in both the number of employees and the
7 hours of employment.

8 (B) Subparagraph (B) of paragraph (1) shall not apply to any
9 of the following:

10 (i) A failure to continue the seasonal employment of a
11 qualified employee who voluntarily fails to return to the seasonal
12 employment of the taxpayer.

13 (ii) A failure to continue the seasonal employment of a
14 qualified employee who, before the close of the period referred to
15 in subparagraph (B) of paragraph (1), becomes disabled and
16 unable to perform the services of that seasonal employment,
17 unless that disability is removed before the close of that period
18 and the taxpayer fails to offer seasonal employment to that
19 qualified employee.

20 (iii) A failure to continue the seasonal employment of a
21 qualified employee, if it is determined that the failure to continue
22 the seasonal employment was due to the misconduct (as defined
23 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
24 California Code of Regulations) of that qualified employee.

25 (iv) A failure to continue seasonal employment of a qualified
26 employee due to a substantial reduction in the regular seasonal
27 trade or business operations of the taxpayer.

28 (v) A failure to continue the seasonal employment of a
29 qualified employee, if that qualified employee is replaced by
30 other qualified employees so as to create a net increase in both
31 the number of seasonal employees and the hours of seasonal
32 employment.

33 (C) For purposes of paragraph (1), the employment
34 relationship between the taxpayer and a qualified employee shall
35 not be treated as terminated by either of the following:

36 (i) By a transaction to which Section 381(a) of the Internal
37 Revenue Code applies, if the qualified employee continues to be
38 employed by the acquiring corporation.

39 (ii) By reason of a mere change in the form of conducting the
40 trade or business of the taxpayer, if the qualified employee

1 continues to be employed in that trade or business and the
2 taxpayer retains a substantial interest in the trade or business.

3 (3) Any increase in tax under paragraph (1) shall not be
4 treated as tax imposed by this part for purposes of determining
5 the amount of any credit allowable under this part.

6 (f) Rules similar to the rules provided in Section 46(e) and (h)
7 of the Internal Revenue Code shall apply to both the following:

8 (1) An organization to which Section 593 of the Internal
9 Revenue Code applies.

10 (2) A regulated investment company or a real estate
11 investment trust subject to taxation under this part.

12 (g) (1) The credit allowable under this section shall be
13 reduced by the credit allowed under Sections 23623.5 and 23625
14 claimed for the same employee. The credit shall also be reduced
15 by the federal credit allowed under Section 51 of the Internal
16 Revenue Code.

17 (2) Any deduction otherwise allowed under this part for the
18 wages or salaries paid or incurred by the taxpayer upon which
19 the credit is based shall be reduced by the amount of the credit,
20 prior to any reduction required by subdivision (h) or (i).

21 (h) In the case where the credit otherwise allowed under this
22 section exceeds the “tax” for the taxable year, that portion of the
23 credit that exceeds the “tax” may be carried over and added to
24 the credit, if any, in succeeding taxable years, until the credit is
25 exhausted. The credit shall be applied first to the earliest taxable
26 years possible.

27 (i) (1) The amount of the credit otherwise allowed under this
28 section and Section 23612.2, including any credit carryover from
29 prior years, that may reduce the “tax” for the taxable year shall
30 not exceed the amount of tax which would be imposed on the
31 taxpayer’s business income attributable to the geographically
32 targeted economic development area determined as if that
33 attributable income represented all of the income of the taxpayer
34 subject to tax under this part.

35 (2) Attributable income shall be that portion of the taxpayer’s
36 California source business income that is apportioned to the
37 geographically targeted economic development area. For that
38 purpose, the taxpayer’s business income attributable to sources
39 in this state first shall be determined in accordance with Chapter
40 17 (commencing with Section 25101) of Part 11. That business

1 *income shall be further apportioned to the geographically*
2 *targeted economic development area in accordance with Article*
3 *2 (commencing with Section 25120) of Chapter 17 of Part 11,*
4 *modified for purposes of this section in accordance with*
5 *paragraph (3).*

6 *(3) Business income shall be apportioned to the*
7 *geographically targeted economic development area by*
8 *multiplying the total California business income of the taxpayer*
9 *by a fraction, the numerator of which is the property factor plus*
10 *the payroll factor, and the denominator of which is two. For*
11 *purposes of this paragraph:*

12 *(A) The property factor is a fraction, the numerator of which is*
13 *the average value of the taxpayer's real and tangible personal*
14 *property owned or rented and used in the geographically*
15 *targeted economic development area during the taxable year,*
16 *and the denominator of which is the average value of all the*
17 *taxpayer's real and tangible personal property owned or rented*
18 *and used in this state during the taxable year.*

19 *(B) The payroll factor is a fraction, the numerator of which is*
20 *the total amount paid by the taxpayer in the geographically*
21 *targeted economic development area during the taxable year for*
22 *compensation, and the denominator of which is the total*
23 *compensation paid by the taxpayer in this state during the*
24 *taxable year.*

25 *(4) The portion of any credit remaining, if any, after*
26 *application of this subdivision, shall be carried over to*
27 *succeeding taxable years, as if it were an amount exceeding the*
28 *"tax" for the taxable year, as provided in subdivision (h).*

29 *SEC. 31. Section 23634 of the Revenue and Taxation Code is*
30 *amended to read:*

31 *23634. (a) For each taxable year beginning on or after*
32 *January 1, 1998, there shall be allowed a credit against the "tax"*
33 *(as defined by Section 23036) to a qualified taxpayer who*
34 *employs a qualified employee in a targeted tax area during the*
35 *taxable year. The credit shall be equal to the sum of each of the*
36 *following:*

37 *(1) Fifty percent of qualified wages in the first year of*
38 *employment.*

39 *(2) Forty percent of qualified wages in the second year of*
40 *employment.*

1 (3) Thirty percent of qualified wages in the third year of
2 employment.

3 (4) Twenty percent of qualified wages in the fourth year of
4 employment.

5 (5) Ten percent of qualified wages in the fifth year of
6 employment.

7 (b) For purposes of this section:

8 (1) “Qualified wages” means:

9 (A) That portion of wages paid or incurred by the qualified
10 taxpayer during the taxable year to qualified employees that does
11 not exceed 150 percent of the minimum wage.

12 (B) Wages received during the 60-month period beginning
13 with the first day the employee commences employment with the
14 qualified taxpayer. Reemployment in connection with any
15 increase, including a regularly occurring seasonal increase, in the
16 trade or business operations of the qualified taxpayer does not
17 constitute commencement of employment for purposes of this
18 section.

19 (C) Qualified wages do not include any wages paid or incurred
20 by the qualified taxpayer on or after the targeted tax area
21 expiration date. However, wages paid or incurred with respect to
22 qualified employees who are employed by the qualified taxpayer
23 within the targeted tax area within the 60-month period prior to
24 the targeted tax area expiration date shall continue to qualify for
25 the credit under this section after the targeted tax area expiration
26 date, in accordance with all provisions of this section applied as
27 if the targeted tax area designation were still in existence and
28 binding.

29 (2) “Minimum wage” means the wage established by the
30 Industrial Welfare Commission as provided for in Chapter 1
31 (commencing with Section 1171) of Part 4 of Division 2 of the
32 Labor Code.

33 (3) “Targeted tax area expiration date” means the date the
34 targeted tax area designation expires, is revoked, is no longer
35 binding, or becomes inoperative.

36 (4) (A) “Qualified employee” means an individual who meets
37 all of the following requirements:

38 (i) At least 90 percent of his or her services for the qualified
39 taxpayer during the taxable year are directly related to the

1 conduct of the qualified taxpayer's trade or business located in a
2 targeted tax area.

3 (ii) Performs at least 50 percent of his or her services for the
4 qualified taxpayer during the taxable year in a targeted tax area.

5 (iii) Is hired by the qualified taxpayer after the date of original
6 designation of the area in which services were performed as a
7 targeted tax area.

8 (iv) Is any of the following:

9 (I) Immediately preceding the qualified employee's
10 commencement of employment with the qualified taxpayer, was
11 a person eligible for services under the federal Job Training
12 Partnership Act (29 U.S.C. Sec. 1501 et seq.), or its successor,
13 who is receiving, or is eligible to receive, subsidized
14 employment, training, or services funded by the federal Job
15 Training Partnership Act, or its successor.

16 (II) Immediately preceding the qualified employee's
17 commencement of employment with the qualified taxpayer, was
18 a person eligible to be a voluntary or mandatory registrant under
19 the Greater Avenues for Independence Act of 1985 (GAIN)
20 provided for pursuant to Article 3.2 (commencing with Section
21 11320) of Chapter 2 of Part 3 of Division 9 of the Welfare and
22 Institutions Code, or its successor.

23 (III) Immediately preceding the qualified employee's
24 commencement of employment with the qualified taxpayer, was
25 an economically disadvantaged individual 14 years of age or
26 older.

27 (IV) Immediately preceding the qualified employee's
28 commencement of employment with the qualified taxpayer, was
29 a dislocated worker who meets any of the following:

30 (aa) Has been terminated or laid off or who has received a
31 notice of termination or layoff from employment, is eligible for
32 or has exhausted entitlement to unemployment insurance
33 benefits, and is unlikely to return to his or her previous industry
34 or occupation.

35 (bb) Has been terminated or has received a notice of
36 termination of employment as a result of any permanent closure
37 or any substantial layoff at a plant, facility, or enterprise,
38 including an individual who has not received written notification
39 but whose employer has made a public announcement of the
40 closure or layoff.

1 (cc) Is long-term unemployed and has limited opportunities for
2 employment or reemployment in the same or a similar
3 occupation in the area in which the individual resides, including
4 an individual 55 years of age or older who may have substantial
5 barriers to employment by reason of age.

6 (dd) Was self-employed (including farmers and ranchers) and
7 is unemployed as a result of general economic conditions in the
8 community in which he or she resides or because of natural
9 disasters.

10 (ee) Was a civilian employee of the Department of Defense
11 employed at a military installation being closed or realigned
12 under the Defense Base Closure and Realignment Act of 1990.

13 (ff) Was an active member of the armed forces or National
14 Guard as of September 30, 1990, and was either involuntarily
15 separated or separated pursuant to a special benefits program.

16 (gg) Is a seasonal or migrant worker who experiences chronic
17 seasonal unemployment and underemployment in the agriculture
18 industry, aggravated by continual advancements in technology
19 and mechanization.

20 (hh) Has been terminated or laid off, or has received a notice
21 of termination or layoff, as a consequence of compliance with the
22 Clean Air Act.

23 (V) Immediately preceding the qualified employee's
24 commencement of employment with the qualified taxpayer, was
25 a disabled individual who is eligible for or enrolled in, or has
26 completed a state rehabilitation plan or is a service-connected
27 disabled veteran, veteran of the Vietnam era, or veteran who is
28 recently separated from military service.

29 (VI) Immediately preceding the qualified employee's
30 commencement of employment with the qualified taxpayer, was
31 an ex-offender. An individual shall be treated as convicted if he
32 or she was placed on probation by a state court without a finding
33 of guilt.

34 (VII) Immediately preceding the qualified employee's
35 commencement of employment with the qualified taxpayer, was
36 a person eligible for or a recipient of any of the following:

37 (aa) Federal Supplemental Security Income benefits.

38 (bb) Aid to Families with Dependent Children.

39 (cc) Food stamps.

40 (dd) State and local general assistance.

(VIII) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a member of a federally recognized Indian tribe, band, or other group of Native American descent.

(IX) Immediately preceding the qualified employee's commencement of employment with the qualified taxpayer, was a resident of a targeted tax area.

(X) Immediately preceding the qualified employee's commencement of employment with the taxpayer, was a member of a targeted group, as defined in Section 51(d) of the Internal Revenue Code, or its successor.

(B) Priority for employment shall be provided to an individual who is enrolled in a qualified program under the federal Job Training Partnership Act or the Greater Avenues for Independence Act of 1985 or who is eligible as a member of a targeted group under the Work Opportunity Tax Credit (Section 51 of the Internal Revenue Code), or its successor.

(5) (A) "Qualified taxpayer" means a person or entity that meets both of the following:

(i) Is engaged in a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(ii) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(B) In the case of any ~~pass-through~~ *passthrough* entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any credit under this section or Section 17053.34 shall be allowed to the ~~pass-through~~ *passthrough* entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subparagraph, the term ~~"pass-through~~ *"passthrough* entity" means any partnership or ~~S~~ "S" corporation.

1 (6) “Seasonal employment” means employment by a qualified
2 taxpayer that has regular and predictable substantial reductions in
3 trade or business operations.

4 (c) If the qualified taxpayer is allowed a credit for qualified
5 wages pursuant to this section, only one credit shall be allowed to
6 the taxpayer under this part with respect to those qualified wages.

7 (d) The qualified taxpayer shall do both of the following:

8 (1) Obtain from either the Employment Development
9 Department, as permitted by federal law, or the local county or
10 city Job Training Partnership Act administrative entity or the
11 local county GAIN office or social services agency, as
12 appropriate, a certification that provides that a qualified
13 employee meets the eligibility requirements specified in clause
14 (iv) of subparagraph (A) of paragraph (4) of subdivision (b). The
15 Employment Development Department may provide preliminary
16 screening and referral to a certifying agency. The Employment
17 Development Department shall develop a form for this purpose.

18 (2) Retain a copy of the certification and provide it upon
19 request to the Franchise Tax Board.

20 (e) (1) For purposes of this section:

21 (A) All employees of all corporations that are members of the
22 same controlled group of corporations shall be treated as
23 employed by a single taxpayer.

24 (B) The credit, if any, allowable by this section to each
25 member shall be determined by reference to its proportionate
26 share of the expense of the qualified wages giving rise to the
27 credit, and shall be allocated in that manner.

28 (C) For purposes of this subdivision, “controlled group of
29 corporations” means “controlled group of corporations” as
30 defined in Section 1563(a) of the Internal Revenue Code, except
31 that:

32 (i) “More than 50 percent” shall be substituted for “at least 80
33 percent” each place it appears in Section 1563(a)(1) of the
34 Internal Revenue Code.

35 (ii) The determination shall be made without regard to
36 subsections (a)(4) and (e)(3)(C) of Section 1563 of the Internal
37 Revenue Code.

38 (2) If an employer acquires the major portion of a trade or
39 business of another employer (hereinafter in this paragraph
40 referred to as the “predecessor”) or the major portion of a

1 separate unit of a trade or business of a predecessor, then, for
2 purposes of applying this section (other than subdivision (f)) for
3 any calendar year ending after that acquisition, the employment
4 relationship between a qualified employee and an employer shall
5 not be treated as terminated if the employee continues to be
6 employed in that trade or business.

7 (f) (1) (A) If the employment, other than seasonal
8 employment, of any qualified employee with respect to whom
9 qualified wages are taken into account under subdivision (a) is
10 terminated by the qualified taxpayer at any time during the first
11 270 days of that employment (whether or not consecutive) or
12 before the close of the 270th calendar day after the day in which
13 that employee completes 90 days of employment with the
14 qualified taxpayer, the tax imposed by this part for the taxable
15 year in which that employment is terminated shall be increased
16 by an amount equal to the credit allowed under subdivision (a)
17 for that taxable year and all prior taxable years attributable to
18 qualified wages paid or incurred with respect to that employee.

19 (B) If the seasonal employment of any qualified employee,
20 with respect to whom qualified wages are taken into account
21 under subdivision (a) is not continued by the qualified taxpayer
22 for a period of 270 days of employment during the 60-month
23 period beginning with the day the qualified employee
24 commences seasonal employment with the qualified taxpayer,
25 the tax imposed by this part, for the taxable year that includes the
26 60th month following the month in which the qualified employee
27 commences seasonal employment with the qualified taxpayer,
28 shall be increased by an amount equal to the credit allowed under
29 subdivision (a) for that taxable year and all prior taxable years
30 attributable to qualified wages paid or incurred with respect to
31 that qualified employee.

32 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
33 any of the following:

34 (i) A termination of employment of a qualified employee who
35 voluntarily leaves the employment of the qualified taxpayer.

36 (ii) A termination of employment of a qualified employee
37 who, before the close of the period referred to in subparagraph
38 (A) of paragraph (1), becomes disabled and unable to perform the
39 services of that employment, unless that disability is removed

1 before the close of that period and the qualified taxpayer fails to
2 offer reemployment to that employee.

3 (iii) A termination of employment of a qualified employee, if
4 it is determined that the termination was due to the misconduct
5 (as defined in Sections 1256-30 to 1256-43, inclusive, of Title 22
6 of the California Code of Regulations) of that employee.

7 (iv) A termination of employment of a qualified employee due
8 to a substantial reduction in the trade or business operations of
9 the taxpayer.

10 (v) A termination of employment of a qualified employee, if
11 that employee is replaced by other qualified employees so as to
12 create a net increase in both the number of employees and the
13 hours of employment.

14 (B) Subparagraph (B) of paragraph (1) shall not apply to any
15 of the following:

16 (i) A failure to continue the seasonal employment of a
17 qualified employee who voluntarily fails to return to the seasonal
18 employment of the qualified taxpayer.

19 (ii) A failure to continue the seasonal employment of a
20 qualified employee who, before the close of the period referred to
21 in subparagraph (B) of paragraph (1), becomes disabled and
22 unable to perform the services of that seasonal employment,
23 unless that disability is removed before the close of that period
24 and the qualified taxpayer fails to offer seasonal employment to
25 that qualified employee.

26 (iii) A failure to continue the seasonal employment of a
27 qualified employee, if it is determined that the failure to continue
28 the seasonal employment was due to the misconduct (as defined
29 in Sections 1256-30 to 1256-43, inclusive, of Title 22 of the
30 California Code of Regulations) of that qualified employee.

31 (iv) A failure to continue seasonal employment of a qualified
32 employee due to a substantial reduction in the regular seasonal
33 trade or business operations of the qualified taxpayer.

34 (v) A failure to continue the seasonal employment of a
35 qualified employee, if that qualified employee is replaced by
36 other qualified employees so as to create a net increase in both
37 the number of seasonal employees and the hours of seasonal
38 employment.

39 (C) For purposes of paragraph (1), the employment
40 relationship between the qualified taxpayer and a qualified

1 employee shall not be treated as terminated by either of the
2 following:

3 (i) By a transaction to which Section 381(a) of the Internal
4 Revenue Code applies, if the qualified employee continues to be
5 employed by the acquiring corporation.

6 (ii) By reason of a mere change in the form of conducting the
7 trade or business of the qualified taxpayer, if the qualified
8 employee continues to be employed in that trade or business and
9 the qualified taxpayer retains a substantial interest in that trade or
10 business.

11 (3) Any increase in tax under paragraph (1) shall not be treated
12 as tax imposed by this part for purposes of determining the
13 amount of any credit allowable under this part.

14 (g) Rules similar to the rules provided in Sections 46(e) and
15 (h) of the Internal Revenue Code shall apply to both of the
16 following:

17 (1) An organization to which Section 593 of the Internal
18 Revenue Code applies.

19 (2) A regulated investment company or a real estate
20 investment trust subject to taxation under this part.

21 (h) For purposes of this section, “targeted tax area” means an
22 area designated pursuant to Chapter 12.93 (commencing with
23 Section 7097) of Division 7 of Title 1 of the Government Code.

24 (i) In the case where the credit otherwise allowed under this
25 section exceeds the “tax” for the taxable year, that portion of the
26 credit that exceeds the “tax” may be carried over and added to
27 the credit, if any, in succeeding taxable years, until the credit is
28 exhausted. The credit shall be applied first to the earliest taxable
29 years possible.

30 (j) (1) The amount of the credit otherwise allowed under this
31 section and Section 23633, including any credit carryover from
32 prior years, that may reduce the “tax” for the taxable year shall
33 not exceed the amount of tax that would be imposed on the
34 qualified taxpayer’s business income attributable to the targeted
35 tax area determined as if that attributable income represented all
36 of the income of the qualified taxpayer subject to tax under this
37 part.

38 (2) Attributable income shall be that portion of the taxpayer’s
39 California source business income that is apportioned to the
40 targeted tax area. For that purpose, the taxpayer’s business

income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this section in accordance with paragraph (3).

(3) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this paragraph:

(A) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the targeted tax area during the taxable year, and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this state during the taxable year.

(B) The payroll factor is a fraction, the numerator of which is the total amount paid by the taxpayer in the targeted tax area during the taxable year for compensation, and the denominator of which is the total compensation paid by the taxpayer in this state during the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the "tax" for the taxable year, as provided in subdivision (h).

(5) In the event that a credit carryover is allowable under subdivision (h) for any taxable year after the targeted tax area designation has expired or been revoked, the targeted tax area shall be deemed to remain in existence for purposes of computing the limitation specified in this subdivision.

(k) (1) The credit authorized by this section shall not be applicable on or after January 1, 2007.

(2) On or after January 1, 2007, taxpayers that would otherwise be eligible to claim a credit authorized by this section, may claim a credit for these expenses under Section 23622.9.

(3) Notwithstanding this subdivision, the provisions of subdivision (f) of Section 23036 shall apply with respect to any remaining carryover of the credit previously authorized by this section.

1 *SEC. 32. Section 23646 of the Revenue and Taxation Code is*
2 *amended to read:*

3 23646. (a) For each taxable year beginning on or after
4 January 1, 1995, there shall be allowed as a credit against the
5 “tax” (as defined in Section 23036) to a qualified taxpayer for
6 hiring a qualified disadvantaged individual or a qualified
7 displaced employee during the taxable year for employment in
8 the LAMBRA. The credit shall be equal to the sum of each of the
9 following:

10 (1) Fifty percent of the qualified wages in the first year of
11 employment.

12 (2) Forty percent of the qualified wages in the second year of
13 employment.

14 (3) Thirty percent of the qualified wages in the third year of
15 employment.

16 (4) Twenty percent of the qualified wages in the fourth year of
17 employment.

18 (5) Ten percent of the qualified wages in the fifth year of
19 employment.

20 (b) For purposes of this section:

21 (1) “Qualified wages” means:

22 (A) That portion of wages paid or incurred by the employer
23 during the taxable year to qualified disadvantaged individuals or
24 qualified displaced employees that does not exceed 150 percent
25 of the minimum wage.

26 (B) The total amount of qualified wages which may be taken
27 into account for purposes of claiming the credit allowed under
28 this section shall not exceed two million dollars (\$2,000,000) per
29 taxable year.

30 (C) Wages received during the 60-month period beginning
31 with the first day the individual commences employment with the
32 taxpayer. Reemployment in connection with any increase,
33 including a regularly occurring seasonal increase, in the trade or
34 business operation of the qualified taxpayer does not constitute
35 commencement of employment for purposes of this section.

36 (D) Qualified wages do not include any wages paid or incurred
37 by the qualified taxpayer on or after the LAMBRA expiration
38 date. However, wages paid or incurred with respect to qualified
39 disadvantaged individuals or qualified displaced employees who
40 are employed by the qualified taxpayer within the LAMBRA

1 within the 60-month period prior to the LAMBRA expiration
2 date shall continue to qualify for the credit under this section
3 after the LAMBRA expiration date, in accordance with all
4 provisions of this section applied as if the LAMBRA designation
5 were still in existence and binding.

6 (2) “Minimum wage” means the wage established by the
7 Industrial Welfare Commission as provided for in Chapter 1
8 (commencing with Section 1171) of Part 4 of Division 2 of the
9 Labor Code.

10 (3) “LAMBRA” means a local agency military base recovery
11 area designated in accordance with the provisions of Section
12 7114 of the Government Code.

13 (4) “Qualified disadvantaged individual” means an individual
14 who satisfies all of the following requirements:

15 (A) (i) At least 90 percent of whose services for the taxpayer
16 during the taxable year are directly related to the conduct of the
17 taxpayer’s trade or business located in a LAMBRA.

18 (ii) Who performs at least 50 percent of his or her services for
19 the taxpayer during the taxable year in the LAMBRA.

20 (B) Who is hired by the employer after the designation of the
21 area as a LAMBRA in which the individual’s services were
22 primarily performed.

23 (C) Who is any of the following immediately preceding the
24 individual’s commencement of employment with the taxpayer:

25 (i) An individual who has been determined eligible for
26 services under the federal Job Training Partnership Act (29
27 U.S.C. Sec. 1501 et seq.), or its successor.

28 (ii) Any voluntary or mandatory registrant under the Greater
29 Avenues for Independence Act of 1985 provided for pursuant to
30 Article 3.2 (commencing with Section 11320) of Chapter 2 of
31 Part 3 of Division 9 of the Welfare and Institutions Code.

32 (iii) An economically disadvantaged individual age 16 years or
33 older.

34 (iv) A dislocated worker who meets any of the following
35 conditions:

36 (I) Has been terminated or laid off or who has received a
37 notice of termination or layoff from employment, is eligible for
38 or has exhausted entitlement to unemployment insurance
39 benefits, and is unlikely to return to his or her previous industry
40 or occupation.

1 (II) Has been terminated or has received a notice of
2 termination of employment as a result of any permanent closure
3 or any substantial layoff at a plant, facility, or enterprise,
4 including an individual who has not received written notification
5 but whose employer has made a public announcement of such a
6 closure or layoff.

7 (III) Is long-term unemployed and has limited opportunities
8 for employment or reemployment in the same or a similar
9 occupation in the area in which the individual resides, including
10 an individual 55 years of age or older who may have substantial
11 barriers to employment by reason of age.

12 (IV) Was self-employed (including farmers and ranchers) and
13 is unemployed as a result of general economic conditions in the
14 community in which he or she resides or because of natural
15 disasters.

16 (V) Was a civilian employee of the Department of Defense
17 employed at a military installation being closed or realigned
18 under the Defense Base Closure and Realignment Act of 1990.

19 (VI) Was an active member of the Armed Forces or National
20 Guard as of September 30, 1990, and was either involuntarily
21 separated or separated pursuant to a special benefits program.

22 (VII) Experiences chronic seasonal unemployment and
23 underemployment in the agriculture industry, aggravated by
24 continual advancements in technology and mechanization.

25 (VIII) Has been terminated or laid off or has received a notice
26 of termination or layoff as a consequence of compliance with the
27 Clean Air Act.

28 (v) An individual who is enrolled in or has completed a state
29 rehabilitation plan or is a service-connected disabled veteran,
30 veteran of the Vietnam era, or veteran who is recently separated
31 from military service.

32 (vi) An ex-offender. An individual shall be treated as
33 convicted if he or she was placed on probation by a state court
34 without a finding of guilty.

35 (vii) A recipient of:

36 (I) Federal Supplemental Security Income benefits.

37 (II) Aid to Families with Dependent Children.

38 (III) Food stamps.

39 (IV) State and local general assistance.

1 (viii) Is a member of a federally recognized Indian tribe, band,
2 or other group of Native American descent.

3 (5) “Qualified taxpayer” means a corporation that conducts a
4 trade or business within a LAMBRA and, for the first two
5 taxable years, has a net increase in jobs (defined as 2,000 paid
6 hours per employee per year) of one or more employees as
7 determined below in the LAMBRA.

8 (A) The net increase in the number of jobs shall be determined
9 by subtracting the total number of full-time employees (defined
10 as 2,000 paid hours per employee per year) the taxpayer
11 employed in this state in the taxable year prior to commencing
12 business operations in the LAMBRA from the total number of
13 full-time employees the taxpayer employed in this state during
14 the second taxable year after commencing business operations in
15 the LAMBRA. For taxpayers who commence doing business in
16 this state with their LAMBRA business operation, the number of
17 employees for the taxable year prior to commencing business
18 operations in the LAMBRA shall be zero. If the taxpayer has a
19 net increase in jobs in the state, the credit shall be allowed only if
20 one or more full-time employees is employed within the
21 LAMBRA.

22 (B) The total number of employees employed in the
23 LAMBRA shall equal the sum of both of the following:

24 (i) The total number of hours worked in the LAMBRA for the
25 taxpayer by employees (not to exceed 2,000 hours per employee)
26 who are paid an hourly wage divided by 2,000.

27 (ii) The total number of months worked in the LAMBRA for
28 the taxpayer by employees who are salaried employees divided
29 by 12.

30 (C) In the case of a qualified taxpayer that first commences
31 doing business in the LAMBRA during the taxable year, for
32 purposes of clauses (i) and (ii), respectively, of subparagraph (B)
33 the divisors “2,000” and “12” shall be multiplied by a fraction,
34 the numerator of which is the number of months of the taxable
35 year that the taxpayer was doing business in the LAMBRA and
36 the denominator of which is 12.

37 (6) “Qualified displaced employee” means an individual who
38 satisfies all of the following requirements:

39 (A) Any civilian or military employee of a base or former base
40 that has been displaced as a result of a federal base closure act.

1 (B) (i) At least 90 percent of whose services for the taxpayer
2 during the taxable year are directly related to the conduct of the
3 taxpayer's trade or business located in a LAMBRA.

4 (ii) Who performs at least 50 percent of his or her services for
5 the taxpayer during the taxable year in a LAMBRA.

6 (C) Who is hired by the employer after the designation of the
7 area in which services were performed as a LAMBRA.

8 (7) "Seasonal employment" means employment by a qualified
9 taxpayer that has regular and predictable substantial reductions in
10 trade or business operations.

11 (8) "LAMBRA expiration date" means the date the LAMBRA
12 designation expires, is no longer binding, or becomes
13 inoperative.

14 (c) For qualified disadvantaged individuals or qualified
15 displaced employees hired on or after January 1, 2001, the
16 taxpayer shall do both of the following:

17 (1) Obtain from either the Employment Development
18 Department, as permitted by federal law, the administrative
19 entity of the local county or city for the federal Job Training
20 Partnership Act, or its successor, the local county GAIN office,
21 or social services agency, as appropriate, a certification that
22 provides that a qualified disadvantaged individual or qualified
23 displaced employee meets the eligibility requirements specified
24 in subparagraph (C) of paragraph (4) of subdivision (b) or
25 subparagraph (A) of paragraph (6) of subdivision (b). The
26 Employment Development Department may provide preliminary
27 screening and referral to a certifying agency. The Employment
28 Development Department shall develop a form for this purpose.

29 (2) Retain a copy of the certification and provide it upon
30 request to the Franchise Tax Board.

31 (d) (1) For purposes of this section, both of the following
32 apply:

33 (A) All employees of all corporations that are members of the
34 same controlled group of corporations shall be treated as
35 employed by a single employer.

36 (B) The credit (if any) allowable by this section to each
37 member shall be determined by reference to its proportionate
38 share of the qualified wages giving rise to the credit.

39 (2) For purposes of this subdivision, "controlled group of
40 corporations" has the meaning given to that term by Section

1 1563(a) of the Internal Revenue Code, except that both of the
2 following apply:

3 (A) “More than 50 percent” shall be substituted for “at least 80
4 percent” each place it appears in Section 1563(a)(1) of the
5 Internal Revenue Code.

6 (B) The determination shall be made without regard to Section
7 1563(a)(4) and Section 1563(e)(3)(C) of the Internal Revenue
8 Code.

9 (3) If an employer acquires the major portion of a trade or
10 business of another employer (hereinafter in this paragraph
11 referred to as the “predecessor”) or the major portion of a
12 separate unit of a trade or business of a predecessor, then, for
13 purposes of applying this section (other than subdivision (e)) for
14 any calendar year ending after that acquisition, the employment
15 relationship between an employee and an employer shall not be
16 treated as terminated if the employee continues to be employed
17 in that trade or business.

18 (e) (1) (A) If the employment of any employee, other than
19 seasonal employment, with respect to whom qualified wages are
20 taken into account under subdivision (a) is terminated by the
21 taxpayer at any time during the first 270 days of that employment
22 (whether or not consecutive) or before the close of the 270th
23 calendar day after the day in which that employee completes 90
24 days of employment with the taxpayer, the tax imposed by this
25 part for the taxable year in which that employment is terminated
26 shall be increased by an amount equal to the credit allowed under
27 subdivision (a) for that taxable year and all prior income years
28 attributable to qualified wages paid or incurred with respect to
29 that employee.

30 (B) If the seasonal employment of any qualified disadvantaged
31 individual, with respect to whom qualified wages are taken into
32 account under subdivision (a) is not continued by the qualified
33 taxpayer for a period of 270 days of employment during the
34 60-month period beginning with the day the qualified
35 disadvantaged individual commences seasonal employment with
36 the qualified taxpayer, the tax imposed by this part, for the
37 taxable year that includes the 60th month following the month in
38 which the qualified disadvantaged individual commences
39 seasonal employment with the qualified taxpayer, shall be
40 increased by an amount equal to the credit allowed under

1 subdivision (a) for that taxable year and all prior taxable years
2 attributable to qualified wages paid or incurred with respect to
3 that qualified disadvantaged individual.

4 (2) (A) Subparagraph (A) of paragraph (1) shall not apply to
5 any of the following:

6 (i) A termination of employment of an employee who
7 voluntarily leaves the employment of the taxpayer.

8 (ii) A termination of employment of an individual who, before
9 the close of the period referred to in paragraph (1), becomes
10 disabled to perform the services of that employment, unless that
11 disability is removed before the close of that period and the
12 taxpayer fails to offer reemployment to that individual.

13 (iii) A termination of employment of an individual, if it is
14 determined that the termination was due to the misconduct (as
15 defined in Sections 1256-30 to 1256-43, inclusive, of Title 22 of
16 the California Code of Regulations) of that individual.

17 (iv) A termination of employment of an individual due to a
18 substantial reduction in the trade or business operations of the
19 taxpayer.

20 (v) A termination of employment of an individual, if that
21 individual is replaced by other qualified employees so as to
22 create a net increase in both the number of employees and the
23 hours of employment.

24 (B) Subparagraph (B) of paragraph (1) shall not apply to any
25 of the following:

26 (i) A failure to continue the seasonal employment of a
27 qualified disadvantaged individual who voluntarily fails to return
28 to the seasonal employment of the qualified taxpayer.

29 (ii) A failure to continue the seasonal employment of a
30 qualified disadvantaged individual who, before the close of the
31 period referred to in subparagraph (B) of paragraph (1), becomes
32 disabled and unable to perform the services of that seasonal
33 employment, unless that disability is removed before the close of
34 that period and the qualified taxpayer fails to offer seasonal
35 employment to that qualified disadvantaged individual.

36 (iii) A failure to continue the seasonal employment of a
37 qualified disadvantaged individual, if it is determined that the
38 failure to continue the seasonal employment was due to the
39 misconduct (as defined in Sections 1256-30 to 1256-43,

1 inclusive, of Title 22 of the California Code of Regulations) of
2 that individual.

3 (iv) A failure to continue seasonal employment of a qualified
4 disadvantaged individual due to a substantial reduction in the
5 regular seasonal trade or business operations of the qualified
6 taxpayer.

7 (v) A failure to continue the seasonal employment of a
8 qualified disadvantaged individual, if that individual is replaced
9 by other qualified disadvantaged individuals so as to create a net
10 increase in both the number of seasonal employees and the hours
11 of seasonal employment.

12 (C) For purposes of paragraph (1), the employment
13 relationship between the taxpayer and an employee shall not be
14 treated as terminated by either of the following:

15 (i) A transaction to which Section 381(a) of the Internal
16 Revenue Code applies, if the employee continues to be employed
17 by the acquiring corporation.

18 (ii) A mere change in the form of conducting the trade or
19 business of the taxpayer, if the employee continues to be
20 employed in that trade or business and the taxpayer retains a
21 substantial interest in that trade or business.

22 (3) Any increase in tax under paragraph (1) shall not be treated
23 as tax imposed by this part for purposes of determining the
24 amount of any credit allowable under this part.

25 (4) At the close of the second taxable year, if the taxpayer has
26 not increased the number of its employees as determined by
27 paragraph (5) of subdivision (b), then the amount of the credit
28 previously claimed shall be added to the taxpayer's tax for the
29 taxpayer's second taxable year.

30 (f) In the case of an organization to which Section 593 of the
31 Internal Revenue Code applies, and a regulated investment
32 company or a real estate investment trust subject to taxation
33 under this part, rules similar to the rules provided in Section
34 46(e) and Section 46(h) of the Internal Revenue Code shall
35 apply.

36 (g) The credit shall be reduced by the credit allowed under
37 Section 23621. The credit shall also be reduced by the federal
38 credit allowed under Section 51 of the Internal Revenue Code.

39 In addition, any deduction otherwise allowed under this part
40 for the wages or salaries paid or incurred by the taxpayer upon

1 which the credit is based shall be reduced by the amount of the
2 credit, prior to any reduction required by subdivision (h) or (i).

3 (h) In the case where the credit otherwise allowed under this
4 section exceeds the “tax” for the taxable year, that portion of the
5 credit that exceeds the “tax” may be carried over and added to
6 the credit, if any, in succeeding years, until the credit is
7 exhausted. The credit shall be applied first to the earliest taxable
8 years possible.

9 (i) (1) The amount of credit otherwise allowed under this
10 section and Section 23645, including any prior year carryovers,
11 that may reduce the “tax” for the taxable year shall not exceed
12 the amount of tax that would be imposed on the taxpayer’s
13 business income attributed to a LAMBRA determined as if that
14 attributed income represented all of the income of the taxpayer
15 subject to tax under this part.

16 (2) Attributable income shall be that portion of the taxpayer’s
17 California source business income that is apportioned to the
18 LAMBRA. For that purpose, the taxpayer’s business income that
19 is attributable to sources in this state first shall be determined in
20 accordance with Chapter 17 (commencing with Section 25101).
21 That business income shall be further apportioned to the
22 LAMBRA in accordance with Article 2 (commencing with
23 Section 25120) of Chapter 17, modified for purposes of this
24 section in accordance with paragraph (3).

25 (3) Income shall be apportioned to a LAMBRA by multiplying
26 the total California business income of the taxpayer by a fraction,
27 the numerator of which is the property factor plus the payroll
28 factor, and the denominator of which is two. For purposes of this
29 paragraph:

30 (A) The property factor is a fraction, the numerator of which is
31 the average value of the taxpayer’s real and tangible personal
32 property owned or rented and used in the LAMBRA during the
33 taxable year, and the denominator of which is the average value
34 of all the taxpayer’s real and tangible personal property owned or
35 rented and used in this state during the taxable year.

36 (B) The payroll factor is a fraction, the numerator of which is
37 the total amount paid by the taxpayer in the LAMBRA during the
38 taxable year for compensation, and the denominator of which is
39 the total compensation paid by the taxpayer in this state during
40 the taxable year.

(4) The portion of any credit remaining, if any, after application of this subdivision, shall be carried over to succeeding taxable years, as if it were an amount exceeding the “tax” for the taxable year, as provided in subdivision (h).

(j) If the taxpayer is allowed a credit pursuant to this section for qualified wages paid or incurred, only one credit shall be allowed to the taxpayer under this part with respect to any wage consisting in whole or in part of those qualified wages.

(k) (1) The credit authorized by this section shall not be applicable on or after January 1, 2007.

(2) On or after January 1, 2007, taxpayers that would otherwise be eligible to claim a credit authorized by this section, may claim a credit for these expenses under Section 23622.9.

(3) Notwithstanding this subdivision, the provisions of subdivision (f) of Section 23036 shall apply with respect to any remaining carryover of the credit previously authorized by this section.

SEC. 33. *Section 24356.6 of the Revenue and Taxation Code is amended to read:*

24356.6. (a) For each taxable year beginning on or after January 1, 1998, a qualified taxpayer may elect to treat ~~40~~ 60 percent of the cost of any Section 24356.6 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the qualified taxpayer places the Section 24356.6 property in service.

(b) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 24356.6 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the qualified taxpayer’s original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, “Section 24356.6 property” means any recovery property that is:

(A) Section 1245 property (as defined in Section 1245 (a)(3) of the Internal Revenue Code).

1 (B) Purchased and placed in service by the qualified taxpayer
2 for exclusive use in a trade or business conducted within a
3 targeted tax area designated pursuant to Chapter 12.93
4 (commencing with Section 7097) of Division 7 of Title 1 of the
5 Government Code.

6 (C) Purchased and placed in service before the date the
7 targeted tax area designation expires, is revoked, is no longer
8 binding, or becomes inoperative.

9 (2) For purposes of paragraph (1), “purchase” means any
10 acquisition of property, but only if all of the following apply:

11 (A) The property is not acquired from a person whose
12 relationship to the person acquiring it would result in the
13 disallowance of losses under Section 267 or 707(b) of the
14 Internal Revenue Code. However, in applying Sections 267(b)
15 and 267(c) for purposes of this section, Section 267(c)(4) shall be
16 treated as providing that the family of an individual shall include
17 only the individual’s spouse, ancestors, and lineal descendants.

18 (B) The property is not acquired by one member of an
19 affiliated group from another member of the same affiliated
20 group.

21 (C) The basis of the property in the hands of the person
22 acquiring it is not determined in whole or in part by reference to
23 the adjusted basis of that property in the hands of the person from
24 who it is acquired.

25 (3) For purposes of this section, the cost of property does not
26 include that portion of the basis of that property that is
27 determined by reference to the basis of other property held at any
28 time by the person acquiring that property.

29 (4) This section shall not apply to any property for which the
30 qualified taxpayer may not make an election under Section 179
31 of the Internal Revenue Code because of the application of the
32 provisions of Section 179(d) of the Internal Revenue Code.

33 (5) For purposes of subdivision (b), both of the following
34 apply:

35 (A) All members of an affiliated group shall be treated as one
36 qualified taxpayer.

37 (B) The qualified taxpayer shall apportion the dollar limitation
38 contained in subdivision (f) among the members of the affiliated
39 group in whatever manner the board shall prescribe.

(6) For purposes of paragraphs (2) and (5), “affiliated group” means “affiliated group” as defined in Section 1504 of the Internal Revenue Code, except that, for these purposes, the phrase “more than 50 percent” shall be substituted for the phrase “at least 80 percent” each place it appears in Section 1504(a) of the Internal Revenue Code.

(d) (1) For purposes of this section, “qualified taxpayer” means a corporation that meets both of the following:

(A) Is engaged in conducting a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(B) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive, and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition.

(2) In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer under this section shall be made at the entity level and any deduction under this section or Section 17267.6 shall be allowed to the pass-through entity and passed through to the partners or shareholders in accordance with applicable provisions of this part or Part 10 (commencing with Section 17001). For purposes of this subparagraph, the term “pass-through entity” means any partnership or S corporation.

(e) Any qualified taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.6 property. However, the qualified taxpayer may claim depreciation by any method permitted by Section 24349 commencing with the taxable year following the taxable year in which Section 24356.6 property is placed in service.

(f) The aggregate cost of all Section 24356.6 property that may be taken into account under subdivision (a) for any taxable year shall not exceed ~~the following applicable amount for the taxable year of the designation of the relevant targeted tax area and taxable years thereafter:~~ *one hundred thousand dollars (\$100,000).*

1		The applicable
2		amount is:
3	Taxable year of designation.....	\$100,000
4	1st taxable year thereafter.....	100,000
5	2nd taxable year thereafter.....	75,000
6	3rd taxable year thereafter.....	- 75,000
7	Each taxable year thereafter.....	- 50,000

(g) Any amounts deducted under subdivision (a) with respect to Section 24356.6 property that ceases to be used in the qualified taxpayer's trade or business within a targeted tax area at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

SEC. 34. Section 24356.7 of the Revenue and Taxation Code is amended to read:

24356.7. (a) A taxpayer may elect to treat ~~40~~ 60 percent of the cost of any Section 24356.7 property as an expense that is not chargeable to a capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which the taxpayer places the Section 24356.7 property in service.

(b) (1) An election under this section for any taxable year shall do both of the following:

(A) Specify the items of Section 24356.7 property to which the election applies and the percentage of the cost of each of those items that are to be taken into account under subdivision (a).

(B) Be made on the taxpayer's original return of the tax imposed by this part for the taxable year.

(2) Any election made under this section, and any specification contained in that election, may not be revoked except with the consent of the Franchise Tax Board.

(c) (1) For purposes of this section, "Section 24356.7 property" means any recovery property that is:

(A) Section 1245 property (as defined in Section 1245(a)(3) of the Internal Revenue Code).

(B) Purchased and placed in service by the taxpayer for exclusive use in a trade or business conducted within an enterprise zone designated pursuant to Chapter 12.8

1 (commencing with Section 7070) of Division 7 of Title 1 of the
2 Government Code.

3 (C) Purchased and placed in service before the date the
4 enterprise zone designation expires, is no longer binding, or
5 becomes inoperative.

6 (2) For purposes of paragraph (1), “purchase” means any
7 acquisition of property, but only if all of the following apply:

8 (A) The property is not acquired from a person whose
9 relationship to the person acquiring it would result in the
10 disallowance of losses under Sections 24427 through 24429.
11 However, in applying Sections 24428 and 24429 for purposes of
12 this section, subdivision (d) of Section 24429 shall be treated as
13 providing that the family of an individual shall include only his
14 or her spouse, ancestors, and lineal descendants.

15 (B) The property is not acquired by one member of an
16 affiliated group from another member of the same affiliated
17 group.

18 (C) The basis of the property in the hands of the person
19 acquiring it is not determined in whole or in part by reference to
20 the adjusted basis of that property in the hands of the person from
21 whom it is acquired.

22 (3) For purposes of this section, the cost of property does not
23 include that portion of the basis of that property that is
24 determined by reference to the basis of other property held at any
25 time by the person acquiring that property.

26 (4) This section shall not apply to any property for which the
27 taxpayer could not make a federal election under Section 179 of
28 the Internal Revenue Code because of the application of the
29 provisions of Section 179(d) of the Internal Revenue Code.

30 (5) For purposes of subdivision (b) of this section, both of the
31 following apply:

32 (A) All members of an affiliated group shall be treated as one
33 taxpayer.

34 (B) The taxpayer shall apportion the dollar limitation
35 contained in subdivision (f) among the members of the affiliated
36 group in whatever manner the board shall prescribe.

37 (6) For purposes of paragraphs (2) and (5), “affiliated group”
38 means “affiliated group” as defined in Section 1504 of the
39 Internal Revenue Code, except that, for these purposes, the
40 phrase “more than 50 percent” shall be substituted for the phrase

“at least 80 percent” each place it appears in Section 1504(a) of the Internal Revenue Code.

(d) For purposes of this section, “taxpayer” means a bank or corporation that conducts a trade or business within an enterprise zone designated pursuant to Chapter 12.8 (commencing with Section 7070) of Division 7 of Title 1 of the Government Code.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.7 property. However, the taxpayer may claim depreciation by any method permitted by Section 24349 commencing with the taxable year following the taxable year in which Section 24356.7 property is placed in service.

(f) The aggregate cost of all Section 24356.7 property that may be taken into account under subdivision (a) for any taxable years shall not exceed ~~the following applicable amount for the taxable year of the designation of the relevant enterprise zone and taxable years thereafter:~~ *one hundred thousand dollars (\$1000,000).*

-	The applicable
-	amount is:
Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	- 75,000
3rd taxable year thereafter.....	75,000
Each taxable year thereafter.....	50,000

(g) Any amounts deducted under subdivision (a) with respect to Section 24356.7 property that ceases to be used in the taxpayer’s trade or business within an enterprise zone at any time before the close of the second taxable year after the property is placed in service shall be included in income in the taxable year in which the property ceases to be so used.

SEC. 35. Section 24356.8 of the Revenue and Taxation Code is amended to read:

24356.8. (a) For each taxable year beginning on or after January 1, 1995, a taxpayer may elect to treat ~~40~~ 60 percent of the cost of any Section 24356.8 property as an expense that is not chargeable to the capital account. Any cost so treated shall be

1 allowed as a deduction for the taxable year in which the taxpayer
2 places the Section 24356.8 property in service.

3 (b) (1) An election under this section for any taxable year
4 shall meet both of the following requirements:

5 (A) Specify the items of Section 24356.8 property to which
6 the election applies and the portion of the cost of each of those
7 items that is to be taken into account under subdivision (a).

8 (B) Be made on the taxpayer's return of the tax imposed by
9 this part for the taxable year.

10 (2) Any election made under this section, and any
11 specification contained in that election, may not be revoked
12 except with the consent of the Franchise Tax Board.

13 (c) (1) For purposes of this section, "Section 24356.8
14 property" means any recovery property that is:

15 (A) Section 1245 property (as defined in Section 1245(a)(3) of
16 the Internal Revenue Code).

17 (B) Purchased by the taxpayer for exclusive use in a trade or
18 business conducted within a LAMBRA.

19 (C) Purchased before the date the LAMBRA designation
20 expires, is no longer binding, or becomes inoperative.

21 (2) For purposes of paragraph (1), "purchase" means any
22 acquisition of property, but only if all of the following apply:

23 (A) The property is not acquired from a person whose
24 relationship to the person acquiring it would result in the
25 disallowance of losses under Section 267 or 707(b) of the
26 Internal Revenue Code (but, in applying Sections 267(b) and
27 267(c) of the Internal Revenue Code for purposes of this section,
28 Section 267(c)(4) of the Internal Revenue Code shall be treated
29 as providing that the family of an individual shall include only
30 his or her spouse, ancestors, and lineal descendants).

31 (B) The property is not acquired by one component member of
32 an affiliated group from another component member of the same
33 affiliated group.

34 (C) The basis of the property in the hands of the person
35 acquiring it is not determined in whole or in part by reference to
36 the adjusted basis of that property in the hands of the person from
37 whom acquired.

38 (3) For purposes of this section, the cost of property does not
39 include so much of the basis of that property as is determined by

1 reference to the basis of other property held at any time by the
2 person acquiring that property.

3 (4) This section shall not apply to any property for which the
4 taxpayer may not make an election for the taxable year under
5 Section 179 of the Internal Revenue Code because of the
6 provisions of Section 179(d) of the Internal Revenue Code.

7 (5) For purposes of subdivision (b), both of the following
8 apply:

9 (A) All members of an affiliated group shall be treated as one
10 taxpayer.

11 (B) The taxpayer shall apportion the dollar limitation
12 contained in subdivision (f) among the component members of
13 the affiliated group in whatever manner the board shall by
14 regulations prescribe.

15 (6) For purposes of paragraphs (2) and (5), “affiliated group”
16 has the meaning assigned to it by Section 1504 of the Internal
17 Revenue Code, except that, for these purposes, the phrase “more
18 than 50 percent” shall be substituted for the phrase “at least 80
19 percent” each place it appears in Section 1504(a) of the Internal
20 Revenue Code.

21 (7) This section shall not apply to any property described in
22 Section 168(f) of the Internal Revenue Code.

23 (8) In the case of an S corporation, the dollar limitation
24 contained in subdivision (f) shall be applied at the entity level
25 and at the shareholder level.

26 (d) For purposes of this section:

27 (1) “LAMBRA” means a local agency military base recovery
28 area designated in accordance with the provisions of Section
29 7114 of the Government Code.

30 (2) “Taxpayer” means a corporation that conducts a trade or
31 business within a LAMBRA and, for the first two taxable years,
32 has a net increase in jobs (defined as 2,000 paid hours per
33 employee per year) of one or more employees in the LAMBRA.

34 (A) The net increase in the number of jobs shall be determined
35 by subtracting the total number of full-time employees (defined
36 as 2,000 paid hours per employee per year) the taxpayer
37 employed in this state in the taxable year prior to commencing
38 business operations in the LAMBRA from the total number of
39 full-time employees the taxpayer employed in this state during
40 the second taxable year after commencing business operations in

the LAMBRA. For taxpayers who commence doing business in this state with their LAMBRA business operation, the number of employees for the taxable year prior to commencing business operations in the LAMBRA shall be zero. If the taxpayer has a net increase in jobs in the state, the credit shall be allowed only if one or more full-time employees is employed within the LAMBRA.

(B) The total number of employees employed in the LAMBRA shall equal the sum of both of the following:

(i) The total number of hours worked in the LAMBRA for the taxpayer by employees (not to exceed 2,000 hours per employee) who are paid an hourly wage divided by 2,000.

(ii) The total number of months worked in the LAMBRA for the taxpayer by employees who are salaried employees divided by 12.

(C) In the case of a taxpayer that first commences doing business in the LAMBRA during the taxable year, for purposes of clauses (i) and (ii), respectively, of subparagraph (B), the divisors “2,000” and “12” shall be multiplied by a fraction, the numerator of which is the number of months of the taxable year that the taxpayer was doing business in the LAMBRA and the denominator of which is 12.

(e) Any taxpayer who elects to be subject to this section shall not be entitled to claim additional depreciation pursuant to Section 24356 with respect to any property that constitutes Section 24356.8 property.

(f) The aggregate cost of all Section 24356.8 property that may be taken into account under subdivision (a) for any taxable year shall not exceed ~~the following applicable amounts for the taxable year of the designation of the relevant LAMBRA and taxable years thereafter:~~ *one hundred thousand dollars (\$100,000).*

The applicable
amount is:

Taxable year of designation.....	\$100,000
1st taxable year thereafter.....	100,000
2nd taxable year thereafter.....	75,000
3rd taxable year thereafter.....	75,000

1		The applicable
2		amount is:
3	Each taxable year thereafter.....	— 50,000

4

5 (g) This section shall apply only to property that is used
 6 exclusively in a trade or business conducted within a LAMBRA.

7 (h) (1) Any amounts deducted under subdivision (a) with
 8 respect to property that ceases to be used in the trade or business
 9 within a LAMBRA at any time before the close of the second
 10 taxable year after the property was placed in service shall be
 11 included in income for that year.

12 (2) At the close of the second taxable year, if the taxpayer has
 13 not increased the number of its employees as determined by
 14 paragraph (2) of subdivision (d), then the amount of the
 15 deduction previously claimed shall be added to the taxpayer's net
 16 income for the taxpayer's second taxable year.

17 (i) Any taxpayer who elects to be subject to this section shall
 18 not be entitled to claim for the same property the deduction under
 19 Section 179 of the Internal Revenue Code, relating to an election
 20 to expense certain depreciable business assets.

21 *SEC. 36. Section 24384.5 of the Revenue and Taxation Code*
 22 *is amended to read:*

23 24384.5. (a) There shall be allowed as a deduction the
 24 amount of net interest received by the taxpayer in payment of
 25 indebtedness of a person or entity engaged in a trade or business
 26 located in an enterprise zone.

27 (b) No deduction shall be allowed under this section unless at
 28 the time the indebtedness is incurred each of the following
 29 requirements are met:

30 (1) The trade or business *qualifying the lender for the*
 31 *deduction* is *physically* located ~~solely~~ within an enterprise zone.
 32 *Debtors physically located within and outside the enterprise zone*
 33 *shall not qualify the lender for the deduction for loans made*
 34 *within the zone.*

35 (2) The indebtedness is incurred solely in connection with
 36 activity within the enterprise zone. *Lenders shall verify and*
 37 *document that the proceeds from loans made to taxpayers in the*
 38 *enterprise zone are spent within the enterprise zone.*

39 (3) The taxpayer has no equity or other ownership interest in
 40 the debtor.

1 (c) “Enterprise zone” means an area designated as an
2 enterprise zone pursuant to Chapter 12.8 (commencing with
3 Section 7070) of Division 7 of Title 1 of the Government Code.

4 *SEC. 37. Section 24416.2 of the Revenue and Taxation Code*
5 *is amended to read:*

6 24416.2. (a) The term “qualified taxpayer” as used in Section
7 24416.1 includes a corporation engaged in the conduct of a trade
8 or business within an enterprise zone designated pursuant to
9 Chapter 12.8 (commencing with Section 7070) of Division 7 of
10 Title 1 of the Government Code. For purposes of this
11 subdivision, all of the following shall apply:

12 (1) A net operating loss shall not be a net operating loss
13 carryback for any taxable year and a net operating loss for any
14 taxable year beginning on or after the date that the area in which
15 the taxpayer conducts a trade or business is designated as an
16 enterprise zone shall be a net operating loss carryover to each of
17 the 15 taxable years following the taxable year of loss.

18 (2) For purposes of this subdivision:

19 (A) “Net operating loss” means the loss determined under
20 Section 172 of the Internal Revenue Code, as modified by
21 Section 24416.1, attributable to the taxpayer’s business activities
22 within the enterprise zone (as defined in Chapter 12.8
23 (commencing with Section 7070) of Division 7 of Title 1 of the
24 Government Code) prior to the enterprise zone expiration date.
25 ~~That attributable loss shall be determined in accordance with~~
26 ~~Chapter 17 (commencing with Section 25101), modified for~~
27 ~~purposes of this subdivision as follows:~~

28 ~~(i) Loss shall be apportioned to the enterprise zone by~~
29 ~~multiplying total loss from the business by a fraction, the~~
30 ~~numerator of which is the property factor plus the payroll factor,~~
31 ~~and the denominator of which is two.~~

32 ~~(ii) “The enterprise zone” shall be substituted for “this state.”~~

33 ~~(B) A net operating loss carryover shall be a deduction only~~
34 ~~with respect to the taxpayer’s business income attributable to the~~
35 ~~enterprise zone as defined in Chapter 12.8 (commencing with~~
36 ~~Section 7070) of Division 7 of Title 1 of the Government Code.~~

37 ~~(C) Attributable income is that portion of the taxpayer’s~~
38 ~~California source business income that is apportioned to the~~
39 ~~enterprise zone. For that purpose, the taxpayer’s business income~~
40 ~~attributable to sources in this state first shall be determined in~~

1 ~~accordance with Chapter 17 (commencing with Section 25101).~~
2 ~~That business income shall be further apportioned to the~~
3 ~~enterprise zone in accordance with Article 2 (commencing with~~
4 ~~Section 25120) of Chapter 17, modified for purposes of this~~
5 ~~subdivision as follows:~~

6 ~~(i) Business income shall be apportioned to the enterprise zone~~
7 ~~by multiplying the total California business income of the~~
8 ~~taxpayer by a fraction, the numerator of which is the property~~
9 ~~factor plus the payroll factor, and the denominator of which is~~
10 ~~two. For purposes of this clause:~~

11 ~~(I) The property factor is a fraction, the numerator of which is~~
12 ~~the average value of the taxpayer's real and tangible personal~~
13 ~~property owned or rented and used in the enterprise zone during~~
14 ~~the taxable year, and the denominator of which is the average~~
15 ~~value of all the taxpayer's real and tangible personal property~~
16 ~~owned or rented and used in this state during the taxable year.~~

17 ~~(II) The payroll factor is a fraction, the numerator of which is~~
18 ~~the total amount paid by the taxpayer in the enterprise zone~~
19 ~~during the taxable year for compensation, and the denominator of~~
20 ~~which is the total compensation paid by the taxpayer in this state~~
21 ~~during the taxable year.~~

22 ~~(ii) If a loss carryover is allowable pursuant to this section for~~
23 ~~any taxable year after the enterprise zone designation has~~
24 ~~expired, the enterprise zone shall be deemed to remain in~~
25 ~~existence for purposes of computing the limitation set forth in~~
26 ~~subparagraph (B) and allowing a net operating loss deduction.~~

27 ~~(D)~~

28 ~~(B) "Enterprise zone expiration date" means the date the~~
29 ~~enterprise zone designation expires, is no longer binding, or~~
30 ~~becomes inoperative.~~

31 ~~(3) The changes made to this subdivision by the act adding~~
32 ~~this paragraph shall apply to taxable years beginning on or after~~
33 ~~January 1, 1998.~~

34 ~~(b) A taxpayer who qualifies as a "qualified taxpayer" under~~
35 ~~one or more sections shall, for the taxable year of the net~~
36 ~~operating loss and any taxable year to which that net operating~~
37 ~~loss may be carried, designate on the original return filed for~~
38 ~~each year the section which applies to that taxpayer with respect~~
39 ~~to that net operating loss. If the taxpayer is eligible to qualify~~

1 under more than one section, the designation is to be made after
2 taking into account subdivision (c).

3 (c) If a taxpayer is eligible to qualify under this section and
4 either Section 24416.4, 24416.5, or 24416.6 as a “qualified
5 taxpayer,” with respect to a net operating loss in a taxable year,
6 the taxpayer shall designate which section is to apply to the
7 taxpayer.

8 (d) Notwithstanding Section 24416, the amount of the loss
9 determined under this section, or Section 24416.4, 24416.5, or
10 24416.6 shall be the only net operating loss allowed to be carried
11 over from that taxable year and the designation under subdivision
12 (b) shall be included in the election under Section 24416.1.

13 *SEC. 38. Section 24416.5 of the Revenue and Taxation Code*
14 *is amended to read:*

15 24416.5. (a) For each taxable year beginning on or after
16 January 1, 1995, the term “qualified taxpayer” as used in Section
17 24416.1 includes a taxpayer engaged in the conduct of a trade or
18 business within a LAMBRA. For purposes of this subdivision, all
19 of the following shall apply:

20 (1) A net operating loss shall not be a net operating loss
21 carryback for any taxable year and, except as provided in
22 subparagraph (B), a net operating loss for any taxable year
23 beginning on or after the date the area in which the taxpayer
24 conducts a trade or business is designated a LAMBRA shall be a
25 net operating loss carryover to each following taxable year that
26 ends before the LAMBRA expiration date or to each of the ~~15~~ 17
27 taxable years following the taxable year of loss, if longer.

28 (2) In the case of a financial institution to which Section 585,
29 586, or 593 of the Internal Revenue Code applies, a net operating
30 loss for any taxable year beginning on or after January 1, 1984,
31 shall be a net operating loss carryover to each of the five years
32 following the taxable year of the loss. Subdivision (b) of Section
33 24416.1 shall not apply.

34 (3) “LAMBRA” means a local agency military base recovery
35 area designated in accordance with Section 7114 of the
36 Government Code.

37 (4) “Taxpayer” means a bank or corporation that conducts a
38 trade or business within a LAMBRA and, for the first two
39 taxable years, has a net increase in jobs (defined as 2,000 paid
40 hours per employee per year) of one or more employees in the

1 LAMBRA and this state. For purposes of this paragraph, all of
2 the following shall apply:

3 (A) The net increase in the number of jobs shall be determined
4 by subtracting the total number of full-time employees (defined
5 as 2,000 paid hours per employee per year) the taxpayer
6 employed in this state in the taxable year prior to commencing
7 business operations in the LAMBRA from the total number of
8 full-time employees the taxpayer employed in this state during
9 the second taxable year after commencing business operations in
10 the LAMBRA. For taxpayers who commence doing business in
11 this state with their LAMBRA business operation, the number of
12 employees for the taxable year prior to commencing business
13 operations in the LAMBRA shall be zero. The deduction shall be
14 allowed only if the taxpayer has a net increase in jobs in the state,
15 and if one or more full-time employees are employed within the
16 LAMBRA.

17 (B) The total number of employees employed in the
18 LAMBRA shall equal the sum of both of the following:

19 (i) The total number of hours worked in the LAMBRA for the
20 taxpayer by employees (not to exceed 2,000 hours per employee)
21 who are paid an hourly wage divided by 2,000.

22 (ii) The total number of months worked in the LAMBRA for
23 the taxpayer by employees who are salaried employees divided
24 by 12.

25 (C) In the case of a taxpayer that first commences doing
26 business in the LAMBRA during the taxable year, for purposes
27 of clauses (i) and (ii), respectively, of subparagraph (B) the
28 divisors “2,000” and “12” shall be multiplied by a fraction, the
29 numerator of which is the number of months of the taxable year
30 that the taxpayer was doing business in the LAMBRA and the
31 denominator of which is 12.

32 (5) “Net operating loss” means the loss determined under
33 Section 172 of the Internal Revenue Code, as modified by
34 Section 24416.1, attributable to the taxpayer’s business activities
35 within a LAMBRA prior to the LAMBRA expiration date. ~~The~~
36 ~~attributable loss shall be determined in accordance with Chapter~~
37 ~~17 (commencing with Section 25101), modified for purposes of~~
38 ~~this section as follows:~~

39 ~~(A) Loss shall be apportioned to a LAMBRA by multiplying~~
40 ~~total loss from the business by a fraction, the numerator of which~~

1 is the property factor plus the payroll factor, and the denominator
2 of which is 2.

3 ~~(B) “The LAMBRA” shall be substituted for “this state.”~~

4 ~~(6) A net operating loss carryover shall be a deduction only~~
5 ~~with respect to the taxpayer’s business income attributable to a~~
6 ~~LAMBRA.~~

7 ~~(7) Attributable income is that portion of the taxpayer’s~~
8 ~~California source business income that is apportioned to the~~
9 ~~LAMBRA. For that purpose, the taxpayer’s business income~~
10 ~~attributable to sources in this state first shall be determined in~~
11 ~~accordance with Chapter 17 (commencing with Section 25101).~~
12 ~~That business income shall be further apportioned to the~~
13 ~~LAMBRA in accordance with Article 2 (commencing with~~
14 ~~Section 25120) of Chapter 17, modified as follows:~~

15 ~~(A) Business income shall be apportioned to a LAMBRA by~~
16 ~~multiplying total California business income of the taxpayer by a~~
17 ~~fraction, the numerator of which is the property factor plus the~~
18 ~~payroll factor, and the denominator of which is two. For purposes~~
19 ~~of this clause:~~

20 ~~(i) The property factor is a fraction, the numerator of which is~~
21 ~~the average value of the taxpayer’s real and tangible personal~~
22 ~~property owned or rented and used in the LAMBRA during the~~
23 ~~taxable year, and the denominator of which is the average value~~
24 ~~of all the taxpayer’s real and tangible personal property owned or~~
25 ~~rented and used in this state during the taxable year.~~

26 ~~(ii) The payroll factor is a fraction, the numerator of which is~~
27 ~~the total amount paid by the taxpayer in the LAMBRA during the~~
28 ~~taxable year for compensation, and the denominator of which is~~
29 ~~the total compensation paid by the taxpayer in this state during~~
30 ~~the taxable year.~~

31 ~~(B) If a loss carryover is allowable pursuant to this section for~~
32 ~~any taxable year after the LAMBRA designation has expired, the~~
33 ~~LAMBRA shall be deemed to remain in existence for purposes~~
34 ~~of computing the limitation specified in subparagraph (D) and~~
35 ~~allowing a net operating loss deduction.~~

36 ~~(8)~~

37 ~~(6) “LAMBRA expiration date” means the date the~~
38 ~~LAMBRA designation expires, is no longer binding, or becomes~~
39 ~~inoperative pursuant to Section 7110 of the Government Code.~~

(b) A taxpayer who qualifies as a “qualified taxpayer” under one or more sections shall, for the taxable year of the net operating loss and any taxable year to which that net operating loss may be carried, designate on the original return filed for each year the section that applies to that taxpayer with respect to that net operating loss. If the taxpayer is eligible to qualify under more than one section, the designation is to be made after taking into account subdivision (c).

(c) If a taxpayer is eligible to qualify under this section and either Section 24416.2, 24416.4, or 24416.6 as a “qualified taxpayer,” with respect to a net operating loss in a taxable year, the taxpayer shall designate which section is to apply to the taxpayer.

(d) Notwithstanding Section 24416, the amount of the loss determined under this section or Section 24416.2, 24416.4, or 24416.6 shall be the only net operating loss allowed to be carried over from that taxable year and the designation under subdivision (b) shall be included in the election under Section 24416.1.

(e) This section shall apply to taxable years beginning on and after January 1, 1998.

SEC. 39. Section 24416.6 of the Revenue and Taxation Code is amended to read:

24416.6. (a) For each taxable year beginning on or after January 1, 1998, the term “qualified taxpayer” as used in Section 24416.1 includes a corporation that meets both of the following:

(1) Is engaged in the conduct of a trade or business within a targeted tax area designated pursuant to Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.

(2) Is engaged in those lines of business described in Codes 2000 to 2099, inclusive; 2200 to 3999, inclusive; 4200 to 4299, inclusive; 4500 to 4599, inclusive; and 4700 to 5199, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition. In the case of any pass-through entity, the determination of whether a taxpayer is a qualified taxpayer shall be made at the entity level.

(b) For purposes of subdivision (a), all of the following shall apply:

(1) A net operating loss shall not be a net operating loss carryback for any taxable year and a net operating loss for any taxable year beginning on or after the date that the area in which the qualified taxpayer conducts a trade or business is designated as a targeted tax area shall be a net operating loss carryover to each of the 15 17 taxable years following the taxable year of loss.

(2) “Net operating loss” means the loss determined under Section 172 of the Internal Revenue Code, as modified by Section 24416.1, attributable to the qualified taxpayer’s business activities within the targeted tax area (as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code) prior to the targeted tax area expiration date. ~~That attributable loss shall be determined in accordance with Chapter 17 (commencing with Section 25101), modified for purposes of this section as follows:~~

~~(A) Loss shall be apportioned to the targeted tax area by multiplying total loss from the business by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is 2.~~

~~(B) “The targeted tax area” shall be substituted for “this state.”~~

~~(3) A net operating loss carryover shall be a deduction only with respect to the qualified taxpayer’s business income attributable to the targeted tax area as defined in Chapter 12.93 (commencing with Section 7097) of Division 7 of Title 1 of the Government Code.~~

~~(4) Attributable income is that portion of the taxpayer’s California source business income that is apportioned to the targeted tax area. For that purpose, the taxpayer’s business income attributable to sources in this state first shall be determined in accordance with Chapter 17 (commencing with Section 25101). That business income shall be further apportioned to the targeted tax area in accordance with Article 2 (commencing with Section 25120) of Chapter 17, modified for purposes of this subdivision as follows:~~

~~(A) Business income shall be apportioned to the targeted tax area by multiplying the total California business income of the taxpayer by a fraction, the numerator of which is the property factor plus the payroll factor, and the denominator of which is two. For purposes of this clause:~~

1 ~~(i) The property factor is a fraction, the numerator of which is~~
2 ~~the average value of the taxpayer's real and tangible personal~~
3 ~~property owned or rented and used in the targeted tax area during~~
4 ~~the taxable year, and the denominator of which is the average~~
5 ~~value of all the taxpayer's real and tangible personal property~~
6 ~~owned or rented and used in this state during the taxable year.~~

7 ~~(ii) The payroll factor is a fraction, the numerator of which is~~
8 ~~the total amount paid by the taxpayer in the targeted tax area~~
9 ~~during the taxable year for compensation, and the denominator of~~
10 ~~which is the total compensation paid by the taxpayer in this state~~
11 ~~during the taxable year.~~

12 ~~(B) If a loss carryover is allowable pursuant to this subdivision~~
13 ~~for any taxable year after the targeted tax area expiration date, the~~
14 ~~targeted tax area designation shall be deemed to remain in~~
15 ~~existence for purposes of computing the limitation specified in~~
16 ~~subparagraph (B) and allowing a net operating loss deduction.~~

17 ~~(5)–~~

18 (3) “Targeted tax area expiration date” means the date the
19 targeted tax area designation expires, is revoked, is no longer
20 binding, or becomes inoperative.

21 (c) A taxpayer who qualifies as a “qualified taxpayer” under
22 one or more sections shall, for the taxable year of the net
23 operating loss and any taxable year to which that net operating
24 loss may be carried, designate on the original return filed for
25 each year the section that applies to that taxpayer with respect to
26 that net operating loss. If the taxpayer is eligible to qualify under
27 more than one section, the designation is to be made after taking
28 into account subdivision (e).

29 (d) If a taxpayer is eligible to qualify under this section and
30 either Section 24416.2, 24416.4, or 24416.5 as a “qualified
31 taxpayer,” with respect to a net operating loss in a taxable year,
32 the taxpayer shall designate which section is to apply to the
33 taxpayer.

34 (e) Notwithstanding Section 24416, the amount of the loss
35 determined under this section or Section 24416.2, 24416.4, or
36 24416.5 shall be the only net operating loss allowed to be carried
37 over from that taxable year and the designation under subdivision
38 (c) shall be included in the election under Section 24416.1.

39 (f) This section shall apply to taxable years beginning on or
40 after January 1, 1998.

1 *SEC. 40. It is the intent of the Legislature that no inference be*
2 *drawn in connection with any matter governed by Sections*
3 *17053.34, 17053.46, 17053.47, 17053.74, 23622.7, 23622.8,*
4 *23634, and 23646 of the Revenue and Taxation Code, from the*
5 *period to which the amendments made to those sections by this*
6 *act apply, or in connection with any matter governed by Sections*
7 *17053.76 and 23622.9 of the Revenue and Taxation Code, as*
8 *added by this act, for any taxable year beginning before January*
9 *1, 2007.*

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11
12 **All matter omitted in this version of the bill**
13 **appears in the bill as amended in the**
14 **Assembly, January 19, 2006. (JR11)**
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